

By Barrientos

S.B. No. 25

A BILL TO BE ENTITLED

AN ACT

relating to the continuation, functions, and change of the name of the State Purchasing and General Services Commission, the transfer of responsibility for architectural barrier programs from the commission to the Texas Department of Licensing and Regulation, the transfer of responsibility for the personal property accounting system from the commission to the comptroller, and the acquisition by the commission and other entities of property and services; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

PART 1. ADMINISTRATION OF GENERAL SERVICES COMMISSION

SECTION 1.01. Subdivision (1), Section 1.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Commission" means the [State--Purchasing--and] General Services Commission.

SECTION 1.02. Section 2.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.01. COMMISSION. The [State-Purchasing--and] General Services Commission is an agency of the state [established].

SECTION 1.03. Section 2.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

1 Sec. 2.02. MEMBERSHIP. The commission is composed of three
2 members appointed by the governor with the advice and consent of
3 the senate. All members must be representatives of the general
4 public. Appointments to the commission shall be made without
5 regard to the race, color, handicap, sex, religion, age, or
6 national origin of the appointees. In making appointments under
7 this section, the governor shall attempt to appoint members of
8 different minority groups, including females, African-Americans,
9 Hispanic-Americans, Native Americans, and Asian-Americans. A
10 person is not eligible for appointment if the person or the
11 person's spouse:

12 (1) is employed by or participates in the management
13 of a business entity or other organization that contracts with the
14 commission;

15 (2) owns or controls, directly or indirectly, more
16 than a 10 percent interest in a business entity or other
17 organization that contracts with the state; or

18 (3) uses or receives a substantial amount of tangible
19 goods, services, or funds from the commission, other than
20 compensation or reimbursement authorized by law for commission
21 membership, attendance, or expenses.

22 SECTION 1.04. Section 2.03, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 Sec. 2.03. TERMS. Members of the commission hold office for
26 staggered terms of six years, with a member's term expiring on
27 January 31 of each odd-numbered year.

1 SECTION 1.05. Section 2.04, State Purchasing and General
2 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
3 amended by amending Subsection (c) and adding Subsection (d) to
4 read as follows:

5 (c) Two members of the commission constitute a quorum.

6 (d) The commission shall develop and implement policies that
7 provide the public with a reasonable opportunity to appear before
8 the commission and to speak on any issue under the jurisdiction of
9 the commission.

10 SECTION 1.06. Article 2, State Purchasing and General
11 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
12 amended by adding Section 2.051 to read as follows:

13 Sec. 2.051. REMOVAL OF COMMISSION MEMBERS. (a) It is a
14 ground for removal from the commission if a member:

15 (1) violates a prohibition established by Section
16 2.061 of this Act;

17 (2) cannot discharge the member's duties for a
18 substantial part of the term for which the member is appointed
19 because of illness or disability; or

20 (3) is absent from more than half of the regularly
21 scheduled commission meetings that the member is eligible to attend
22 during a calendar year unless the absence is excused by majority
23 vote of the commission.

24 (b) The validity of an action of the commission is not
25 affected by the fact that it is taken when a ground for removal of
26 a commission member exists.

27 (c) If the executive director has knowledge that a potential

1 ground for removal exists, the executive director shall notify the
2 chairman of the commission of the ground. The chairman shall then
3 notify the governor that a potential ground for removal exists.

4 SECTION 1.07. Section 2.06, State Purchasing and General
5 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
6 amended by adding Subsections (e) through (k) to read as follows:

7 (e) The commission shall provide to its members and
8 employees, as often as necessary, information regarding their
9 qualifications for office or employment under this Act and their
10 responsibilities under applicable laws relating to standards of
11 conduct for state officers or employees.

12 (f) The commission shall develop and implement policies that
13 clearly define the respective responsibilities of the commission
14 and the staff of the commission.

15 (g) The executive director or the executive director's
16 designee shall develop an intraagency career ladder program. The
17 program shall require intraagency postings of all nonentry level
18 positions concurrently with any public posting.

19 (h) The executive director or the executive director's
20 designee shall develop a system of annual performance evaluations.
21 All merit pay for commission employees must be based on the system
22 established under this subsection.

23 (i) The executive director or the executive director's
24 designee shall prepare and maintain a written policy statement to
25 assure implementation of a program of equal employment opportunity
26 under which all personnel transactions are made without regard to
27 race, color, handicap, sex, religion, age, or national origin. The

1 policy statement must include:

2 (1) personnel policies, including policies relating to
3 recruitment, evaluation, selection, appointment, training, and
4 promotion of personnel;

5 (2) a comprehensive analysis of the commission work
6 force that meets federal and state guidelines;

7 (3) procedures by which a determination can be made of
8 significant underutilization in the commission work force of all
9 persons for whom federal or state guidelines encourage a more
10 equitable balance; and

11 (4) reasonable methods to address appropriately those
12 areas of significant underutilization.

13 (j) A policy statement prepared under Subsection (i) of this
14 section must cover an annual period, be updated at least annually,
15 and be filed with the governor's office.

16 (k) The governor's office shall deliver a biennial report to
17 the legislature based on the information received under Subsection
18 (j) of this section. The report may be made separately or as a
19 part of other biennial reports made to the legislature.

20 SECTION 1.08. Article 2, State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended by adding Section 2.061 to read as follows:

23 Sec. 2.061. CONFLICT OF INTEREST. (a) An officer,
24 employee, or paid consultant of a Texas trade association of
25 business entities that contracts with the state may not be a member
26 of the commission or an employee of the commission who is exempt
27 from the state's position classification plan or is compensated at

1 or above the amount prescribed by the General Appropriations Act
2 for step 1, salary group 17, of the position classification salary
3 schedule.

4 (b) A person who is the spouse of an officer, manager, or
5 paid consultant of a Texas trade association of business entities
6 that contracts with the state may not be a commission member and
7 may not be a commission employee who is exempt from the state's
8 position classification plan or is compensated at or above the
9 amount prescribed by the General Appropriations Act for step 1,
10 salary group 17, of the position classification salary schedule.

11 (c) For the purposes of this section, a trade association is
12 a nonprofit, cooperative, and voluntarily joined association of
13 business or professional competitors designed to assist its members
14 and its industry or profession in dealing with mutual business or
15 professional problems and in promoting their common interest.

16 (d) A person may not be a member of the commission or act as
17 the general counsel to the commission if the person is required to
18 register as a lobbyist under Chapter 305, Government Code, because
19 of the person's activities for compensation on behalf of a
20 profession related to the operation of the commission or a business
21 entity that contracts with the state.

22 SECTION 1.09. Section 2.07, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 Sec. 2.07. APPLICATION OF SUNSET ACT. The commission is
26 subject to [~~the-Texas-Sunset-Act--{~~]Chapter 325, Government Code
27 (Texas Sunset Act). Unless continued in existence as provided by

1 that chapter [Act], the commission is abolished and this Act
2 expires December 31 [September--1], 1991. The abolition date
3 prescribed by this section does not require the Sunset Advisory
4 Commission to conduct any review or prepare any report other than
5 the review undertaken before the convening of the 72nd Legislature,
6 Regular Session, 1991, or the report submitted to that legislature.

7 SECTION 1.10. Section 2.08, State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
9 amended to read as follows:

10 Sec. 2.08. REPORTS [REPORT]. (a) Not later than the 30th
11 day after the date on which each regular session of the legislature
12 begins, the commission shall report to the legislature concerning
13 the activities of the commission during the preceding legislative
14 interim and shall recommend any amendments to current law that
15 would result in an increase in efficiency, economy, or productivity
16 in the areas monitored by the commission.

17 (b) The commission shall file annually with the governor and
18 the presiding officer of each house of the legislature a complete
19 and detailed written report accounting for all funds received and
20 disbursed by the commission during the preceding fiscal year. The
21 annual report must be in the form and reported in the time provided
22 by the General Appropriations Act.

23 SECTION 1.11. Article 2, State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
25 amended by adding Section 2.10 to read as follows:

26 Sec. 2.10. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a)
27 The commission shall prepare information of public interest

1 describing the functions of the commission and the commission's
2 procedures by which complaints are filed with and resolved by the
3 commission. The commission by rule shall establish methods by
4 which consumers, service recipients, and persons contracting with
5 the state under authority of this Act are notified of the name,
6 mailing address, and telephone number of the commission for the
7 purpose of directing complaints to the commission. The commission
8 shall make the information available to the public and appropriate
9 state agencies.

10 (b) The commission shall keep an information file about each
11 complaint filed with the commission that the commission has
12 authority to resolve. If a written complaint is filed with the
13 commission that the commission has authority to resolve, the
14 commission, at least quarterly and until final disposition of the
15 complaint, shall notify the parties to the complaint of the status
16 of the complaint unless the notice would jeopardize an undercover
17 investigation.

18 (c) The commission shall prepare and maintain a written plan
19 that describes how a person who does not speak English or who has a
20 physical, mental, or developmental disability can be provided
21 reasonable access to the commission's programs.

22 **PART 2. COMMISSION FUNCTIONS UNDER THE STATE PURCHASING**
23 **AND GENERAL SERVICES ACT**

24 **SECTION 2.01. Article 2, State Purchasing and General**
25 **Services Act (Article 601b, Vernon's Texas Civil Statutes), is**
26 **amended by adding Section 2.11 to read as follows:**

27 Sec. 2.11. DISADVANTAGED BUSINESSES. (a) The commission,

1 in cooperation with the Department of Commerce Office of Minority
2 Business Development, shall establish a disadvantaged business
3 program consistent with the General Appropriations Act and general
4 law.

5 (b) The commission shall:

6 (1) set and strive to meet annual goals for the
7 awarding of contracts to disadvantaged businesses;

8 (2) attempt to identify disadvantaged businesses in
9 the state that provide or have the potential to provide supplies,
10 materials, equipment, or services to the state;

11 (3) take steps to assist and encourage disadvantaged
12 businesses located in this state to bid for contracts with the
13 state;

14 (4) give disadvantaged businesses full access to the
15 commission's bidding and proposal process;

16 (5) inform and offer assistance to disadvantaged
17 businesses regarding the commission's bidding and proposal process;
18 and

19 (6) identify barriers to participation by
20 disadvantaged businesses in the commission's bidding and proposal
21 process.

22 (c) The commission shall appoint an advisory committee with
23 at least three members composed of owners of disadvantaged
24 businesses. A committee member serves at the will of the
25 commission. A committee member may not receive compensation for
26 service on the committee but is entitled to reimbursement for
27 actual and necessary expenses incurred in performing functions as a

1 member of the committee. The committee, in coordination with the
2 Department of Commerce Office of Minority Business Development,
3 shall study the commission's rules and procedures that relate to
4 bidding, purchasing, and contracting with the state in general.
5 The committee shall recommend changes in law to the legislature and
6 changes in rules to the commission that are necessary to facilitate
7 the participation of disadvantaged businesses in state contracting.
8 The commission shall issue a report outlining such recommendations
9 and outlining the results of efforts undertaken by the commission
10 pursuant to Subsection (b) of this section. The report shall be
11 submitted to the governor and to the presiding officer of each
12 house of the legislature prior to January 1, 1993.

13 (d) This section does not exempt the commission from
14 competitive procurement requirements provided by law.

15 SECTION 2.011. Section 3.01(c), State Purchasing and General
16 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
17 amended to read as follows:

18 (c) "Services," as used in this article, means the
19 furnishing of skilled or unskilled labor or professional work but
20 does not include:

21 (1) professional services covered by the Professional
22 Services Procurement Act (Article 664-4, Vernon's Texas Civil
23 Statutes);

24 (2) services of an employee of a state agency;

25 (3) consulting services or services of a private
26 consultant as defined by Chapter 454, Acts of the 65th Legislature,
27 Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil

1 Statutes); [or]

2 (4) services of public utilities; or

3 (5) services to which Article 601i, Revised Statutes,
4 applies.

5 SECTION 2.012. Section 3.022(f), State Purchasing and
6 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
7 is amended to read as follows:

8 (f) The commission shall make a written award of a purchase
9 or lease to the offeror whose proposal is the most advantageous to
10 the state, considering price and the evaluation factors in the
11 request for proposals, except that if the commission finds that
12 none of the offers is acceptable, it shall refuse all offers. In
13 determining which proposal is most advantageous to the state, the
14 commission shall consider factors such as installation costs, the
15 overall life of the system or equipment, the cost of acquisition,
16 operation, and maintenance of hardware included with, associated
17 with, or required for the system or equipment during the state's
18 ownership or lease, and the cost of acquisition, operation, and
19 maintenance of software included with, associated with, or required
20 for the system or equipment during the state's ownership or lease.
21 ~~[The commission may not use any other factors or criteria in its~~
22 ~~evaluation.]~~ The contract file must state in writing the basis on
23 which the award is made.

24 SECTION 2.02. Subsections (a), (c), (e), and (f), Section
25 3.08, State Purchasing and General Services Act (Article 601b,
26 Vernon's Texas Civil Statutes), are amended to read as follows:

27 (a) State agencies are delegated the authority to purchase

1 supplies, materials, and equipment if the purchase does not exceed
2 \$5,000 [~~\$500~~]. The commission by rule shall prescribe procedures
3 for these purchases, and by rule may delegate to state agencies the
4 authority to purchase supplies, materials, or equipment if the
5 purchase exceeds \$5,000 [~~\$500~~].

6 (c) Competitive bidding, whether formal or informal, is not
7 required for a purchase by a state agency if the purchase does not
8 exceed \$1,000 [~~\$100~~], or a greater amount prescribed by rule of the
9 commission.

10 (e) Large purchases may not be divided into small lot
11 purchases in order to meet the specified dollar limits. The
12 commission may not require that unrelated purchases be combined
13 into one purchase order in order to exceed the specified dollar
14 limits.

15 (f) Agencies making purchases under this section for which
16 competitive bidding is required must attempt to obtain at least
17 three competitive bids from sources which normally offer for sale
18 the merchandise being purchased and must comply with Section 3.101
19 of this article.

20 SECTION 2.03. Article 3, State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended by adding Section 3.101 to read as follows:

23 Sec. 3.101. BIDDERS LISTS. (a) This section:

24 (1) applies to all purchases under this article for
25 which competitive bidding or competitive sealed proposals are
26 required;

27 (2) applies to all state agencies that make purchases

1 under this article, including the commission and agencies that make
2 purchases under Section 3.06 of this article; and

3 (3) does not apply to purchases made by the commission
4 under Section 3.11 of this article.

5 (b) The commission shall develop a uniform registration form
6 for application to do business with the commission or with any
7 state agency. The registration forms shall constitute a valid
8 application for a bidders list by all state agencies. Nothing in
9 this subsection shall be construed as preventing any state agency
10 from developing and using its own registration form, but such forms
11 shall not be required in addition to or in lieu of the uniform
12 registration form developed by the commission.

13 (c) Each state agency shall maintain a bidders list and
14 annually register on the list the name and address of each vendor
15 that applies for registration in accordance with rules adopted
16 under this section. An agency may include other relevant vendor
17 information on the list. Each agency shall solicit bids or
18 proposals from all eligible vendors on the list, as provided by
19 this section, when the agency proposes to make a purchase that will
20 cost more than \$5,000.

21 (d) A state agency may charge applicants for registration a
22 fee and may charge registrants an annual renewal fee in an amount
23 designed to recover the agency's costs in developing and
24 maintaining its bidders list and in soliciting bids or proposals
25 under this section. An agency shall set the amount of the fees by
26 rule.

27 (e) Each state agency shall adopt procedures for developing

1 and maintaining its bidders list and procedures for removing
2 inactive vendors from the list.

3 (f) Each state agency shall establish by rule a vendor
4 classification process under which only vendors that may be able to
5 make a bid or proposal on a particular purchase are solicited under
6 this section.

7 (g) The commission may establish by rule a process under
8 which the requirement for soliciting bids or proposals from
9 eligible vendors on the bidders list may be waived for appropriate
10 state agencies or appropriate purchases in circumstances in which
11 the requirement is not warranted. The commission also may assist
12 state agencies regarding issues that arise under this section.

13 SECTION 2.031. Article 3, State Purchasing and General
14 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
15 amended by adding Section 3.102 to read as follows:

16 Sec. 3.102. CERTAIN BIDS AND CONTRACTS PROHIBITED. A state
17 agency may not accept a bid or award a contract that includes
18 proposed financial participation by a person who received
19 compensation from the agency to participate in the preparation of
20 the specifications or request for proposals on which the bid or
21 contract is based. A bidder or contract participant may provide
22 free technical assistance to an agency under this section.

23 SECTION 2.04. Subsection (b), Section 3.11, State Purchasing
24 and General Services Act (Article 601b, Vernon's Texas Civil
25 Statutes), is amended to read as follows:

26 (b) Bidders List. The commission shall maintain a bidders
27 list and shall add or delete names from the list by the application

1 and utilization of applicable standards set forth in Subsection (e)
2 of this section. Bid invitations shall be sent only to those who
3 have expressed a desire to bid on the particular types of items
4 which are the subject of the bid invitation. Use of the bidders
5 list shall not be confined to contract purchases but it may be used
6 by the commission [~~as--it--may--find--desirable~~] in making any
7 purchase.

8 SECTION 2.05. Section 3.17, State Purchasing and General
9 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
10 amended to read as follows:

11 Sec. 3.17. SPECIFICATIONS AND STANDARDS PROGRAM; TEST AND
12 INSPECTION PROGRAM. (a) The commission shall have the authority
13 to establish and maintain a specifications and standards program to
14 coordinate the establishment and maintenance of uniform standards
15 and specifications for materials, supplies, and equipment purchased
16 by the commission. The commission shall enlist the cooperation of
17 other state agencies in the establishment, maintenance, and
18 revision of uniform standards and specifications and shall
19 encourage and foster the use of standard specifications in order
20 that the most efficient purchase of materials, supplies, and
21 equipment may be continuously accomplished.

22 (b) The commission shall [~~may-also~~] establish and maintain a
23 program of testing and inspecting to ensure that materials,
24 supplies, services, and equipment meet specifications, and may make
25 contracts for testing. If any state agency determines that any
26 supplies, materials, services, or equipment received do not meet
27 specifications, it shall promptly notify the commission in writing

1 detailing the reasons why the supplies, materials, services, or
2 equipment do not meet the specifications of the contract. The
3 commission shall immediately determine whether or not the reported
4 supplies, materials, services, or equipment meet specifications.
5 The sole power to determine whether materials, supplies, services,
6 and equipment meet specifications shall rest with the commission.
7 The commission shall adopt rules that provide for the inspecting
8 and testing of costly purchases that the commission determines
9 should be inspected and tested. When the commission finds that
10 contract specifications or conditions have not been complied with,
11 it shall take action, with the assistance of the attorney general,
12 if necessary, against the defaulting contractor.

13 SECTION 2.06. Article 3, State Purchasing and General
14 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
15 amended by adding Section 3.181 to read as follows:

16 Sec. 3.181. STATEWIDE OR REGIONAL SERVICES CONTRACTS;
17 COMMISSION STUDIES. (a) The commission annually shall select for
18 study at least one service that is purchased by one or more state
19 agencies. The commission shall study a selected service to
20 determine whether the state would benefit if the service were
21 provided to appropriate state agencies under a regional or
22 statewide contract. The commission shall give priority to studying
23 services for which the commission has delegated the purchasing
24 function to many state agencies.

25 (b) The commission is not required to enter into a statewide
26 or regional contract for the provision of a service to state
27 agencies if more than five bidders are willing to provide the

1 service to the state under a statewide or regional contract.

2 SECTION 2.061. Article 3, State Purchasing and General
3 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
4 amended by adding Section 3.201 to read as follows:

5 Sec. 3.201. PREFERENCE FOR PRODUCTS MADE FROM RECYCLED
6 MATERIALS. The commission shall give preference to products made
7 of recycled materials in purchases made under this Act if:

8 (1) the products meet state specifications as to
9 quantity and quality; and

10 (2) the cost of the product is equal to or less than
11 the cost of other similar products that are not made of recycled
12 materials.

13 SECTION 2.07. Section 3.23, State Purchasing and General
14 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
15 amended to read as follows:

16 Sec. 3.23. CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE
17 [~~CORRECTIONS~~]. The commission is [~~hereby~~] authorized to make
18 contracts with the Texas Department of Criminal Justice
19 [~~Corrections~~] for the purchase of supplies, equipment, services,
20 and materials for use by other state agencies.

21 SECTION 2.071. Section 3.29, State Purchasing and General
22 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
23 amended by amending Subsection (a) and by adding Subsections (g)
24 and (h) to read as follows:

25 (a) A state agency may not purchase or lease a vehicle
26 designed or used primarily for the transportation of persons,
27 including a station wagon, that has a wheel base longer than 113

1 inches or that has more than 160 [~~145~~] SAE net horsepower. This
2 provision does not apply to the purchase or lease of a vehicle to
3 be used primarily for criminal law enforcement or a bus,
4 motorcycle, pickup, van, truck, three-wheel vehicle, tractor, or
5 ambulance.

6 (g) In this section, a vehicle is considered to be capable
7 of using compressed natural gas or other alternative fuels if the
8 vehicle is capable of using compressed natural gas or other
9 alternative fuels either in its original equipment engine or in an
10 engine that has been converted to use compressed natural gas or
11 other alternative fuels after September 1, 1991, unless the time
12 for compliance is extended pursuant to Subsection (h) of this
13 section.

14 (h) The commission may extend the date by which a vehicle
15 powered by a traditional gasoline or diesel engine shall be capable
16 of using compressed natural gas or other alternative fuels as
17 required under this section for one or more periods of 90 days, but
18 not beyond September 1, 1992, if it finds a lack of ability to
19 acquire such vehicles with original alternative fuels equipment, to
20 acquire such vehicles which are able to be converted, or to
21 convert such vehicles to use compressed natural gas or other
22 alternative fuels.

23 SECTION 2.072. Article 3, State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
25 amended by adding Section 3.32 to read as follows:

26 Sec. 3.32. SAFETY STANDARDS FOR ELECTRICAL ITEMS. The
27 commission or another state agency may not purchase an electrical

1 item unless the item meets applicable safety standards of the
2 federal Occupational Safety and Health Administration (OSHA).

3 SECTION 2.08. Subsections (g) and (m), Section 4.12, State
4 Purchasing and General Services Act (Article 601b, Vernon's Texas
5 Civil Statutes), are amended to read as follows:

6 (g)(1) The commission shall carry out the provisions of this
7 section through a chief of Capitol security, selected by the
8 executive director of the commission in accordance with Section
9 2.06 of this Act. The chief of Capitol security may be a
10 commissioned peace officer and shall hold the position of a
11 division director of the commission, exempt from the state
12 employees classification system, reporting directly to the
13 executive director of the commission. The chief shall develop and
14 submit to the executive director for approval a plan that clearly
15 sets forth the mission of the security function under this section.
16 The chief shall also develop and submit to the executive director
17 for approval personnel policies and procedures that relate to the
18 security function under this section.

19 (2) The commission is authorized to employ other
20 security officers for the purpose of assisting the chief in
21 carrying out the provisions of this section and may commission such
22 security officers as it deems necessary as peace officers. When so
23 commissioned, said officers are [hereby] vested with all the
24 powers, privileges, and immunities of peace officers; provided,
25 that the chief and each security officer shall take and file the
26 oath required of peace officers and shall execute and file with the
27 commission a good and sufficient bond in the sum of \$1,000 payable

1 to the governor of this state and his successors in office with two
2 or more good and sufficient sureties conditioned that he will
3 fairly and faithfully perform all of the duties as may be required
4 of him by law, and that he will fairly and impartially enforce the
5 law of this state and that he will pay over any and all money, or
6 turn over any and all property, to the proper person legally
7 entitled to the same, that may come into his possession by virtue
8 of such office. Said bond shall not be void for the first recovery
9 but may be sued on from time to time in the name of any person
10 injured until the whole amount thereof is recovered. It shall be
11 unlawful and constitute a misdemeanor punishable as provided in
12 this section for any person or persons to impersonate the chief or
13 any of said officers.

14 (m) Nothing herein contained shall be construed to abridge
15 the authority of the commission to grant permission to use [the
16 ~~capitol-grounds-and~~] any grounds adjacent to any state building for
17 such use as may be provided by preexisting law.

18 SECTION 2.09. Subsection (1), Section 4.15, State Purchasing
19 and General Services Act (Article 601b, Vernon's Texas Civil
20 Statutes), as added by Section 1, Chapter 1244, Acts of the 71st
21 Legislature, Regular Session, 1989, is redesignated as Subsection
22 (m) and amended to read as follows:

23 (m) [~~11~~] If the commission determines under Section 5.34 of
24 this Act that the purchase of an existing building is more
25 advantageous to the state than the construction of a new building
26 but a purchase of the building would be subject to existing leases
27 that exceed 15 percent of the total space in the building, the

1 commission may purchase the building subject to existing leases
2 notwithstanding Subsection (c) of this section. When an existing
3 lease expires, the commission may renew the lease subject to this
4 section, including Subsection (c).

5 SECTION 2.10. Subsection (a), Section 5.01A, State
6 Purchasing and General Services Act (Article 601b, Vernon's Texas
7 Civil Statutes), is amended to read as follows:

8 (a) In acquiring real property, each using agency of the
9 state, other than those specifically excluded by Sections 5.13 and
10 5.14 of this article, shall give first consideration to a building
11 that is a historic structure under Section 442.001, Government Code
12 [~~87-Chapter-5007-Acts-of-the--55th--Legislature--Regular--Session--~~
13 ~~1957--as-amended--(Article-61457-Vernon's-Texas-Civil-Statutes)~~], or
14 to a building that has been designated a landmark by the local
15 governing authority, if the building meets requirements and
16 specifications and the cost is not substantially higher than other
17 available structures that meet requirements and specifications.

18 SECTION 2.11. Section 5.12, State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
20 amended to read as follows:

21 Sec. 5.12. DEFINITIONS. The following terms whenever used
22 or referred to in this article shall have the following meanings,
23 except in those instances where the context clearly indicates
24 otherwise:

25 (1) "Using agency" means any instrumentality of the
26 state which shall occupy and make use of a state-owned or
27 state-leased building, and for the purpose of this article the

1 commission shall be considered as the using agency for [~~the--state~~
2 ~~capitol,--the--governor's--mansion--and--for--all--other~~] state-owned
3 buildings maintained by the commission.

4 (2) [~~"Commission"--means--the--State--Purchasing---and~~
5 ~~General-Services-Commission-~~

6 [~~+3~~] "Project" means any building construction
7 project, other than those specifically excluded by Sections 5.13
8 and 5.14 of this article, which shall be financed in whole or in
9 part by specific appropriation, bond issue or federal funds. The
10 term "project" shall include the construction of any building or
11 any structure or any facility or utility appurtenant thereto,
12 including original equipment and original furnishings thereof, and
13 of any addition to, alteration, rehabilitation, or repair of any
14 existing building or any structure, or any facility or utility
15 appurtenant thereto.

16 (3) [~~+4~~] "Project analysis" refers to work done prior
17 to legislative appropriation for a project for the purpose of
18 developing a reliable estimate of the cost of a project to be
19 requested of the legislature.

20 (4) [~~+5~~] "Cost of a project" includes, but shall not
21 be limited to, the cost of all real estate, properties, rights and
22 easements acquired, utility services, site development, the cost of
23 construction and the initial furnishing and equipment thereof, all
24 architectural and engineering and legal expenses, the cost of
25 surveys and plans and specifications, and such other expenses,
26 including those incurred by the commission, as are necessary or
27 incident to determining the feasibility or practicability of any

1 project.

2 (5) [~~6~~] "Construction" means and includes
3 acquisition, construction, and reconstruction.

4 (6) [~~7~~] "Rehabilitation" means and includes renewal,
5 restoration, extension, enlargement, and improvement.

6 (7) [~~8~~] "Equipment" and "furnishings" mean and
7 include any equipment and furnishings whatsoever as may be
8 necessary and required for the use of a project.

9 (8) [~~9~~] "Architect/engineer" means a person
10 registered as an architect pursuant to Chapter 478, Acts of the
11 45th Legislature, Regular Session, 1937, as amended (compiled as
12 Article 249a of Vernon's Texas Civil Statutes), and/or a person
13 registered as a professional engineer pursuant to Chapter 404, Acts
14 of the 45th Legislature, Regular Session, 1937, as amended
15 (compiled as Article 3271a of Vernon's Texas Civil Statutes),
16 employed to provide professional architectural or engineering
17 services and having overall responsibility for the design of a
18 project. The term "architect/engineer" standing by itself may,
19 unless the context clearly indicates otherwise, mean either an
20 architect/engineer employed by the commission on a salary basis or
21 an architect/engineer in private practice retained for a specific
22 project under a contractual agreement with the commission. The
23 term "private architect/engineer" shall specifically and
24 exclusively refer to a registered architect or a registered
25 engineer in private practice retained for a specific project under
26 a contractual agreement with the commission.

27 (9) [~~10~~] "Stage construction" means the construction

1 of a project in phases, each phase resulting in one or more
2 buildings or structures which individually or together shall be
3 capable of use regardless of whether subsequent phases of the
4 project are authorized or not.

5 SECTION 2.12. Subsection (d), Section 5.13, State Purchasing
6 and General Services Act (Article 601b, Vernon's Texas Civil
7 Statutes), is amended to read as follows:

8 (d) Sections 5.16, 5.17, 5.21, and 5.25 of this article
9 apply to construction projects undertaken by or for the
10 institutional division of the Texas Department of Criminal Justice
11 [~~Corrections~~]. No other provisions of this article apply to
12 construction projects undertaken by or for the institutional
13 division of the Texas Department of Criminal Justice [~~Corrections~~].

14 SECTION 2.13. Subsection (c), Section 5.16, State Purchasing
15 and General Services Act (Article 601b, Vernon's Texas Civil
16 Statutes), as amended by Section 4 of Chapter 362 and Section 4 of
17 Chapter 571, Acts of the 68th Legislature, Regular Session, 1983,
18 is amended to read as follows:

19 (c) A project analysis shall consist of (1) a complete
20 description of the facility or project together with a
21 justification of such facility or project prepared by the using
22 agency, (2) a detailed estimate of the amount of space needed to
23 meet the needs of the using agency and to allow for realistic
24 future growth, (3) a description of the proposed facility prepared
25 by an architect/engineer and including schematic plans and outline
26 specifications describing the type of construction and probable
27 materials to be used, sufficient to establish the general scope and

1 quality of construction, (4) an estimate of the probable cost of
2 construction, (5) a description of the proposed site of the project
3 and an estimate of the cost of site preparation, [and] (6) an
4 overall estimate of the cost of the project, (7) the information
5 about historic structures considered instead of new construction
6 that was prepared as required by Section 5.01A of this article, and
7 (8) other information as required by the commission. A project
8 analysis may include two or more alternative proposals for meeting
9 the space needs of the using agency by (1) new construction, (2)
10 acquisition and rehabilitation of an existing or historic
11 structure, or (3) a combination of the above. If any part of the
12 project involves the construction or rehabilitation of a building
13 that is to be used primarily as a parking garage or for office
14 space for the state government, the project analysis also shall
15 include a description of the amount and location of space in the
16 building that can be made available for lease, under Section 4.15
17 of this Act, to private tenants or shall include a statement of the
18 reason that the lease of space in the building to private tenants
19 is not feasible. All estimates involved in the preparation of a
20 project analysis shall be carefully and fully documented and
21 incorporated into the project analysis.

22 Throughout the preparation of the project analysis, the
23 commission and any private architect/engineer employed by the
24 commission shall work closely and cooperatively with the using
25 agency to the end that the project analysis shall fully reflect the
26 needs of the using agency.

27 The using agency shall use the cost of the project as

1 determined by such project analysis as the basis of its request to
2 the budget offices of this state.

3 SECTION 2.14. Subsection (b), Section 5.18, State Purchasing
4 and General Services Act (Article 601b, Vernon's Texas Civil
5 Statutes), is amended to read as follows:

6 (b) If the expenditures for fine arts are authorized and
7 appropriated by the legislature, the commission shall consult and
8 cooperate with the Texas Commission on the Arts [~~and-Humanities~~]
9 for advice in determining how to utilize the portion of the
10 appropriation to be used for fine arts projects.

11 SECTION 2.15. Subsections (b) and (c), Section 5.19, State
12 Purchasing and General Services Act (Article 601b, Vernon's Texas
13 Civil Statutes), are amended to read as follows:

14 (b) The agency or the governing body of a political
15 subdivision may consult and cooperate with the Texas Commission on
16 the Arts [~~and-Humanities~~] for advice in determining how to utilize
17 the portion of the cost set aside for fine arts purposes.

18 (c) The Texas Commission on the Arts [~~and-Humanities~~] shall
19 place emphasis on works by living Texas artists whenever feasible,
20 and when consulting with the governing body of a political
21 subdivision, shall place emphasis on works by artists who reside in
22 or near the political subdivision. Consideration shall be given to
23 artists of all ethnic origins.

24 SECTION 2.16. Subsection (c), Section 5.20, State Purchasing
25 and General Services Act (Article 601b, Vernon's Texas Civil
26 Statutes), is amended to read as follows:

27 (c) Following final approval of the working plans and

1 specifications and their acceptance by the using agency, the
2 commission shall cause to be advertised in not less than two
3 newspapers of general circulation for bids or proposals for
4 performance of the construction and related work on the project.
5 The commission shall allow bidders at least 30 days after the date
6 that the commission issues the bid documents to respond to an
7 invitation to bid, but the commission may shorten the period to
8 prevent undue additional costs to a state agency or for emergency
9 projects to prevent or remove a hazard to life or property.
10 Subject to the applicable provisions of other law respecting the
11 award of state contracts, the contract or contracts shall be
12 awarded to the qualified bidder making the lowest and best bid; but
13 no contract shall be awarded for a sum in excess of the amount
14 which the comptroller shall certify to be available for such
15 project. The commission shall have the right to reject any and all
16 bids.

17 SECTION 2.17. Section 5.22, State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended by amending Subsection (b) and adding Subsection (c) to
20 read as follows:

21 (b) Responsibility for the selection of a private
22 architect/engineer employed for any project covered by the
23 provisions of this article shall be vested in the commission. The
24 commission shall adopt rules that state the criteria the commission
25 uses to evaluate the competence and qualifications of private
26 architects/engineers. The commission shall develop the rules in
27 consultation with the Texas Board of Architectural Examiners and

1 the State Board of Registration for Professional Engineers. The
2 commission shall allow each private architect/engineer selected for
3 an interview at least 30 days after the date the commission
4 notifies the architect/engineer to prepare for the interview.

5 (c) In recognition of the close working relationship which
6 must exist between the architect/engineer and the using agency, the
7 commission shall request the using agency to make recommendations
8 regarding private architects/engineers and shall consider any such
9 recommendation in making its selection of a private
10 architect/engineer to be employed for a particular project. The
11 commission shall make its selection in accordance with the rules
12 adopted under Subsection (b) of this section [~~generally--accepted~~
13 ~~standards--for-such-selection~~] and [~~in-conformity-with~~] the ethical
14 standards of the professional societies of such
15 architects/engineers.

16 SECTION 2.18. Subsection (b), Section 5.26, State Purchasing
17 and General Services Act (Article 601b, Vernon's Texas Civil
18 Statutes), is amended to read as follows:

19 (b) The commission shall cause the uniform general
20 conditions of state building construction contracts to be reviewed
21 whenever in its opinion such review is desirable, but in no event
22 less frequently than once every five years. The review shall be
23 made by a committee appointed by the commission consisting of the
24 director of facilities construction and space management, who shall
25 serve ex officio as chairman of the committee and who shall vote
26 only in the event of a tie; two persons appointed by the commission
27 from a list of nominees submitted to it by the President of the

1 Texas Society of Architects; two persons appointed by the
2 commission from a list of nominees submitted to it by the President
3 of the Texas Society of Professional Engineers; [and] two persons
4 appointed by the commission from a list of nominees submitted to it
5 by the Chairman of the Executive Council of the Texas Associated
6 General Contractors Chapters; and two persons appointed by the
7 commission from the list of nominees submitted to it by the
8 Executive Secretary of the Mechanical Contractors Associations of
9 Texas, Incorporated. Members of any review committee appointed
10 pursuant to this subsection shall serve without compensation but
11 may be reimbursed for their necessary and actual expenses.

12 SECTION 2.19. Subsection (a), Section 5.35, State Purchasing
13 and General Services Act (Article 601b, Vernon's Texas Civil
14 Statutes), is amended to read as follows:

15 (a) The commission shall prepare a long-range plan regarding
16 the needs of state agencies in Travis County which obtain or occupy
17 space under provisions of this [~~the State--Purchasing--and--General~~
18 ~~Services~~] Act [~~{Article-601b, Vernon's Texas Civil Statutes}~~].

19 SECTION 2.191. Section 6.01, State Purchasing and General
20 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
21 amended to read as follows:

22 Sec. 6.01. DEFINITION [DEFINITIONS]. In this article,
23 "space" means office space, warehouse space, laboratory space,
24 storage space exceeding 1,000 gross square feet, or any combination
25 thereof, but does not include aircraft hangar space, radio antenna
26 space, boat storage space, vehicle parking space, residential space
27 for a Texas Department of Mental Health and Mental Retardation

1 program, or space to be utilized for less than one month for
2 meetings, conferences, seminars, conventions, displays,
3 examinations, auctions, or other similar purposes.

4 SECTION 2.20. Subsection (b), Section 6.05, State Purchasing
5 and General Services Act (Article 601b, Vernon's Texas Civil
6 Statutes), as amended by Section 3 of Chapter 779 and Section 5 of
7 Chapter 1244, Acts of the 71st Legislature, Regular Session, 1989,
8 is amended to read as follows:

9 (b) The space may be leased from another state agency
10 through an interagency contract, or from the federal government[~~7-a~~
11 ~~commercial-building-which-is-100-percent-owned,-either-directly--or~~
12 ~~indirectly7--by--a--statewide--Texas-public-retirement-system]~~ or a
13 political subdivision, including a county, a municipality, a school
14 district, a water or irrigation district, a hospital district, a
15 council of government, or a regional planning council, [~~er-from-a~~
16 ~~statewide-Texas-public-retirement-system-in-a--commercial--building~~
17 ~~that--is-100-percent-directly-or-indirectly-owned-by-the-retirement~~
18 ~~system7]~~ through a negotiated contract. The space may also be
19 leased, through a negotiated contract, from a statewide Texas
20 public retirement system in a commercial building that is 100
21 percent directly or indirectly owned by the retirement system.

22 SECTION 2.21. Subsection (j), Section 6.05, State Purchasing
23 and General Services Act (Article 601b, Vernon's Texas Civil
24 Statutes), is amended to read as follows:

25 (j) In leasing space for the use of state agencies, the
26 commission shall give first consideration to a building that is a
27 historic structure under Section 442.001, Government Code [87

Chapter--500,--Acts-of-the-55th-Legislature,--Regular-Session,--1957,
as-amended-(Article-6145,--Vernon's-Texas-Civil-Statutes)], or to a
building that has been designated a landmark by the local governing
authority, if the building meets requirements and specifications
and the cost is not substantially higher than other available
structures that meet requirements and specifications. Upon
consideration of the leasing of space for the use of a state
agency, the commission shall notify all individuals and
organizations that are within the county where the leasing is under
consideration and that are on a list furnished to the commission by
the Texas Historical Commission as required by Section 442.005,
Government Code [8C-of-Chapter-500,--Acts-of-the-55th-Legislature,
Regular--Session,--1957--(Article--6145,--Vernon's---Texas---Civil
Statutes)]. At the end of a biennium, the commission shall report
to the legislature the commission's reasons for rejecting during
the biennium the lease of any historic structure whose owner bid to
lease space to the state.

SECTION 2.22. Section 6.06, State Purchasing and General
Services Act (Article 601b, Vernon's Texas Civil Statutes), is
amended to read as follows:

Sec. 6.06. ELIMINATION OF BARRIERS TO HANDICAPPED PERSONS IN
STATE BUILDINGS. The commission may not enter a lease contract
under this article unless it complies with the provisions of
Article 9101, Revised Statutes [7-of-this-Act].

SECTION 2.23. Section 6.111, State Purchasing and General
Services Act (Article 601b, Vernon's Texas Civil Statutes), is
amended to read as follows:

1 Sec. 6.111. DELEGATION OF AUTHORITY TO INSTITUTIONS OF
2 HIGHER EDUCATION. The commission may delegate to an institution of
3 higher education the authority to enter into space lease contracts
4 financed from sources other than funds appropriated from general
5 revenue, provided that an institution of higher education may not
6 enter a lease contract under this section unless it complies with
7 the provisions of Article 9101, Revised Statutes [~~7--of--this--Act~~]
8 concerning architectural barriers.

9 SECTION 2.231. Chapter 403, Government Code, is amended by
10 adding Subchapter L to read as follows:

11 SUBCHAPTER L. PROPERTY ACCOUNTING

12 Sec. 403.271. PROPERTY ACCOUNTING SYSTEM. (a) This
13 subchapter applies to all personal property belonging to the state.

14 (b) The comptroller shall administer the property accounting
15 system and maintain centralized records based on information
16 supplied by state agencies and the uniform statewide accounting
17 system. The comptroller shall adopt necessary rules for the
18 implementation of the property accounting system, including setting
19 the dollar value amount for capital assets and authorizing
20 exemptions from reporting.

21 (c) The property accounting system shall constitute, to the
22 extent possible, the fixed asset component of the uniform statewide
23 accounting system.

24 (d) The comptroller may authorize a state agency to keep
25 property accounting records at the agency's principal office if the
26 agency maintains complete, accurate, and detailed records. When
27 the comptroller makes such a finding, it shall keep summary records

1 of the property held by that agency. The agency shall maintain
2 detailed records in the manner prescribed by the comptroller and
3 shall furnish reports at the time and in the form directed by the
4 comptroller.

5 (e) A state agency shall mark and identify state property in
6 its possession. The agency shall follow the rules issued by the
7 comptroller in marking state property.

8 Sec. 403.272. RESPONSIBILITY FOR PROPERTY ACCOUNTING. (a)
9 A state agency must comply with this subchapter and maintain the
10 property records required.

11 (b) All personal property owned by the state shall be
12 accounted for by the agency that possesses the property. The
13 comptroller shall define personal property by rule for the purposes
14 of this subchapter. In adopting rules, the comptroller shall
15 consider the value of the property, its expected useful life, and
16 the cost of recordkeeping. The comptroller shall consult with the
17 state auditor in drafting rules. The state auditor shall cooperate
18 with the comptroller by giving technical assistance and advice.

19 Sec. 403.273. PROPERTY MANAGER; PROPERTY INVENTORY. (a)
20 The head of each state agency is responsible for the custody and
21 care of state property in the agency's possession.

22 (b) The head of each state agency shall designate a property
23 manager and inform the comptroller of the designation. Subject to
24 comptroller approval, more than one property manager may be
25 appointed by the agency head.

26 (c) The property manager shall maintain the records required
27 and be the custodian of all property possessed by the agency.

1 (d) State property may be used only for state purposes.

2 (e) When an agency's property is entrusted to a person other
3 than the property manager, the property manager shall require a
4 written receipt from the person receiving custody of the property.
5 When the property of one agency is lent to another agency, the
6 lending must be authorized in writing by the head of the agency
7 that is lending the property. A written receipt must be executed
8 by the head of the agency that is receiving the property.

9 (f) On the date prescribed by the comptroller, a state
10 agency shall make a complete physical inventory of all property in
11 its possession. The inventory must be completed once each year.

12 (g) Within 45 days after the inventory date prescribed by
13 the comptroller, the head of each state agency shall forward to the
14 comptroller a signed statement describing the method used to verify
15 the inventory and a copy of the inventory.

16 (h) The property records prepared by each state agency must
17 accurately reflect the property currently possessed by the agency.
18 The agency must use the methods prescribed by the comptroller to
19 delete property from the agency's property records. Property that
20 has become surplus or obsolete and no longer serviceable may be
21 deleted from the agency's records only upon authorization by the
22 comptroller. Property that is missing or that is disposed of
23 directly by the agency shall be deleted from the comptroller's
24 records on approval by the state auditor.

25 Sec. 403.274. CHANGE OF AGENCY HEAD OR PROPERTY MANAGER.

26 When the head or property manager of an agency changes, the new
27 head or property manager of the agency shall execute a receipt for

1 all agency property accounted for to the outgoing agency head or
2 property manager. A copy of the receipt shall be delivered to the
3 comptroller, the state auditor, and the outgoing agency head or
4 property manager.

5 Sec. 403.275. LIABILITY FOR PROPERTY LOSS. The liability
6 prescribed by this section may attach on a joint and several basis
7 to more than one person in a particular instance. A person is
8 pecuniarily liable for the loss sustained by the state if:

9 (1) agency property disappears, as a result of the
10 failure of the head of an agency, property manager, or agency
11 employee entrusted with the property to exercise reasonable care
12 for its safekeeping;

13 (2) agency property deteriorates as a result of the
14 failure of the head of an agency, property manager, or agency
15 employee entrusted with the property to exercise reasonable care to
16 maintain and service the property; or

17 (3) agency property is damaged or destroyed as a
18 result of an intentional wrongful act or of a negligent act of any
19 state official or employee.

20 Sec. 403.276. REPORTING TO STATE AUDITOR AND ATTORNEY
21 GENERAL. (a) If a head of an agency has reasonable cause to
22 believe that any state property in the agency's possession has been
23 lost, destroyed, or damaged through the negligence or fault of any
24 state official or employee, the agency head responsible shall
25 immediately report the loss, destruction, or damage to the state
26 auditor and to the attorney general.

27 (b) The attorney general shall investigate a report of loss,

1 destruction, or damage to state property.

2 (c) If the investigation discloses that a property loss has
3 been sustained by the state through the fault of a state official
4 or employee, the attorney general shall make written demand on the
5 state official or employee for reimbursement to the state for the
6 loss sustained.

7 (d) If the demand made by the attorney general for
8 reimbursement for property loss, destruction, or damage is refused
9 or disregarded by the state official or employee on whom such
10 demand is made, the attorney general may take legal action to
11 recover the value of the state property as the attorney general
12 deems necessary.

13 (e) Venue for all suits instituted under this section
14 against a state official or employee is in a court of appropriate
15 jurisdiction of Travis County.

16 Sec. 403.277. FAILURE TO KEEP RECORDS. If a state agency
17 fails to keep the records or fails to take the annual physical
18 inventory required by this subchapter, the comptroller may refuse
19 to draw warrants or initiate electronic funds transfers on behalf
20 of the agency.

21 Sec. 403.278. TRANSFER OF PERSONAL PROPERTY. (a) A state
22 agency may transfer any personal property of the state in its
23 possession to another state agency with or without reimbursement
24 between the agencies.

25 (b) When personal property in the possession of one state
26 agency is transferred to the possession of another state agency,
27 the transfers must be reported immediately to the comptroller by

1 the transferor and the transferee on the forms prescribed.

2 SECTION 2.24. Subsection (a), Section 8.01, State Purchasing
3 and General Services Act (Article 601b, Vernon's Texas Civil
4 Statutes), is amended to read as follows:

5 (a) This article applies to personal property belonging to
6 the state. [~~All personal property belonging to the state shall be~~
7 ~~accounted for by the head of the agency that has possession of the~~
8 ~~property.~~]

9 SECTION 2.25. Subsection (b), Section 8.01, State Purchasing
10 and General Services Act (Article 601b, Vernon's Texas Civil
11 Statutes), as amended by Senate Bill No. 1004, Acts of the 72nd
12 Legislature, Regular Session, 1991, is reenacted to read as
13 follows:

14 (b) The commission shall administer the property accounting
15 system and maintain a complete and accurate set of centralized
16 records of state property based on information supplied by state
17 agencies or the uniform statewide accounting system. The property
18 accounting system shall, to the extent possible, constitute the
19 fixed asset component of the uniform statewide accounting system.
20 The commission shall coordinate with the comptroller in issuing
21 rules, instructions, and necessary requirements for the property
22 accounting system, subject to review and comment by the state
23 auditor. The rules, instructions, and requirements must be
24 consistent with the requirements of the uniform statewide
25 accounting system.

26 SECTION 2.26. Subsection (b), Section 8.02, State Purchasing
27 and General Services Act (Article 601b, Vernon's Texas Civil

1 Statutes), is amended to read as follows:

2 (b) All personal property owned by the state shall be
3 accounted for by the head of the agency that has possession of
4 [possesses] the property. The commission shall by rule
5 [regulation] define what is meant by personal property for the
6 purposes of this article, but such definition shall not include
7 nonconsumable personal property having a value of \$500 or less per
8 unit. In promulgating such rules [regulations], the commission
9 shall take into account the value of the property, its expected
10 useful life, and if the cost of record keeping bears a reasonable
11 relationship to the cost of the property on which records are kept.
12 The commission shall consult with the state auditor in making such
13 rules [regulations] and the auditor shall cooperate with the
14 commission in the exercise of this rulemaking power by giving
15 technical assistance and advice.

16 SECTION 2.27. Section 9.11, State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended to read as follows:

19 Sec. 9.11. PURCHASE OF LEGISLATIVE CHAIRS. Notwithstanding
20 any provision of law to the contrary, upon the vacation of an
21 office or the termination of employment, an elected officer, an
22 appointed officer, or an executive head of a state agency within
23 the legislative, executive, and judicial departments of state
24 government may purchase the chair used by the officer or employee
25 during his or her tenure of service for its fair market value. A
26 determination of the fair market value of the chair shall be made
27 by the commission for executive and legislative agencies other than

1 the legislature, by the chief justice for judicial agencies, by the
2 speaker of the house of representatives for the house of
3 representatives, and by the lieutenant governor for the senate [A
4 legislator-may-purchase-the-executive-chair-used-by-the--legislator
5 on-the-floor-of-the-legislature-if-

6 [+1)--the-legislator-has-not-been-reelected;-and

7 [+2)--the--legislator--pays-into-the-state-treasury-the
8 commission's-estimate-of--the--fair--market--value--of--replacement
9 equipment-

10 [This-section-does-not-limit-a-legislator's-right-to-purchase
11 state-owned-equipment-in-any-other-manner].

12 SECTION 2.271. Article 10, State Purchasing and General
13 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
14 amended by adding Section 10.071 to read as follows:

15 Sec. 10.071. USE OF SYSTEM BY CERTAIN STUDENTS. (a)
16 Institutions of higher education under Section 61.003, Education
17 Code, that are authorized to use the system of telecommunications
18 services established under this article may allow students of the
19 institution who reside in housing for which the institution
20 provides telephone service to use the system of telecommunications
21 services established under this article. An institution shall
22 recover from a student who chooses to use the system the full pro
23 rata cost attributable to that student's use, including costs
24 identifiable for interconnection to and use of the local publicly
25 switched network.

26 (b) The commission shall adopt rules that govern student
27 access to the system, including times of access to the system, and

1 the full recovery of actual costs from each student who uses the
2 system.

3 SECTION 2.28. Subsection (b), Section 11.01, State
4 Purchasing and General Services Act (Article 601b, Vernon's Texas
5 Civil Statutes), is amended to read as follows:

6 (b) Any reference in the statutes to the State Board of
7 Control or [means] the State Purchasing and General Services
8 Commission means the General Services Commission.

9 SECTION 2.29. Section 11.02, State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
11 amended by Chapters 778 and 791, Acts of the 71st Legislature,
12 Regular Session, 1989, is amended to read as follows:

13 Sec. 11.02. DELIVERY OF CERTAIN INTERAGENCY MAIL. (a) The
14 commission shall operate a messenger service for handling the
15 delivery of unstamped written communications and packages between
16 state agencies, including the legislature and legislative agencies,
17 located in Travis County. All such agencies shall utilize the
18 service.

19 (b) Unless use of the United States Postal Service is
20 required by state or federal law, a state agency subject to
21 Subsection (a) of this section may not use the United States Postal
22 Service for delivery of interagency mail to another state agency in
23 Travis County, provided, however, state agencies subject to
24 Subsection (a) are not prohibited from using an alternate delivery
25 method.

26 (c) State warrants may be delivered upon agreement between
27 the state comptroller, the commission, and the agency concerned.

1 (d) United States mail may be delivered to and from the post
2 office located in the capitol complex on agreement of the
3 commission and the agency concerned. [~~It~~] It is the intent of
4 the legislature that mail be processed for delivery as
5 expeditiously as its priority dictates and that mail not be unduly
6 delayed solely for the purpose of achieving a lower rate of
7 postage.

8 (e) In order to improve state agency management of mail
9 operations and to reduce the state's mail costs, this Act requires
10 that state agencies of the executive branch of state government
11 established by the constitution or statutes of this state:

12 (1) evaluate their mail operations to identify and
13 eliminate practices resulting in excessive mailing costs; and

14 (2) develop and implement plans and programs for
15 making the necessary improvements in such operations.

16 (f) Not later than January 1, 1990, the commission [State
17 ~~Purchasing-and-General-Services-Commission~~] shall:

18 (1) evaluate the mail operations of agencies located
19 in Travis County to make recommendations to identify and eliminate
20 practices resulting in excessive mailing costs; and

21 (2) establish minimum mail-management objectives and
22 responsibilities to be carried out by offices and units of these
23 agencies.

24 (g) Not later than April 1, 1990, the commission [State
25 ~~Purchasing-and--General--Services--Commission~~] shall develop and
26 submit to the governor and the legislative budget office a
27 mail-management plan which provides for:

1 (1) improving the measurement of agency mail costs, in
2 conjunction with the United States Postal Service, including
3 considering the use of postage meters or stamps;

4 (2) determining the advantages to agencies of using
5 mail presorting programs;

6 (3) determining the lowest cost class of mail
7 necessary to effectively accomplish individual agency functions;

8 (4) evaluating the cost-effectiveness of using
9 alternatives to the United States Postal Service for the delivery
10 of agency mail; and

11 (5) training agency personnel regarding cost-effective
12 mailing practices.

13 (h) The commission [~~State-Purchasing--and--General--Services~~
14 ~~Commission~~] shall:

15 (1) establish programs to implement the plan prepared
16 under Subsection (g) of this section, including standards for
17 receipt, delivery, collection, and dispatch of mail; and

18 (2) publish and disseminate mail-management standards,
19 guides, and instructions and establish and implement procedures for
20 monitoring compliance with such standards, guides, and
21 instructions.

22 (i) State agencies in Travis County shall:

23 (1) periodically submit to the governor and the
24 legislative budget office reports of their progress in achieving
25 the objectives and other revisions of the plan required by
26 Subsection (g) of this section, including an analysis of savings
27 projected from the improvements in mail management provided for in

1 such revised plan;

2 (2) designate a person to be responsible for the
3 development and implementation of mail-management programs for all
4 offices and units of the agency; and

5 (3) review and consolidate mailing lists used by the
6 agency to distribute publications and other materials issued by the
7 agency.

8 (j) When two or more state agencies are providing common
9 services for mail management, those agencies may designate a single
10 agency to report on behalf of all agencies participating under the
11 contract.

12 SECTION 2.30. Subsections (a) through (d), Section 13.03,
13 State Purchasing and General Services Act (Article 601b, Vernon's
14 Texas Civil Statutes), are amended to read as follows:

15 (a) Each biennium a state agency subject to this article
16 shall conduct competitive cost reviews of the functions performed
17 by that agency as provided by this article and shall adopt rules to
18 implement this article. If the agency has an internal auditor, the
19 internal auditor shall coordinate the activities of the agency that
20 are required under this article. The agency shall conduct
21 management studies, develop agency in-house cost estimates, and
22 conduct other activities as necessary to implement this article.

23 (b) In conducting a competitive cost review of the functions
24 performed by a state agency, the agency shall analyze all agency
25 activities, shall identify by November 1 of each year all
26 commercial activities performed by the agency, and shall develop a
27 schedule for the analysis of the commercial activities identified.

1 For each commercial activity identified, the agency shall also at
2 that time quantify in measurable units the amount of the activity
3 performed by the agency and identify the amount of money budgeted
4 for the activity by the agency. The administrative head of the
5 agency shall promptly submit the agency's inventory of commercial
6 activities, including the workload and budget information, together
7 with its analysis schedule to the State Auditor, Legislative Budget
8 Board, Governor's Office of Budget and Planning, Senate Finance
9 Committee, House Appropriations Committee, and commission for
10 review and comment. The agency shall then report its
11 determinations to its governing body and shall submit the schedule
12 to its governing body [for-approval] by December 1 of each year for
13 approval.

14 (c) After approval of the schedule by the governing body,
15 the state agency shall conduct a management study of the agency
16 functions specified in the schedule. The agency shall conduct the
17 study in accordance with instructions issued by the commission. At
18 the minimum, a management study must contain:

- 19 (1) a description of the agency function;
20 (2) an analysis of the quality and quantity of the
21 work of the agency in relation to that function; and
22 (3) a description of any efficiency initiatives that
23 the agency could implement to perform the function more
24 efficiently.

25 (d) The agency shall submit the completed management study
26 to the commission for approval. After the commission has approved
27 the study, the agency shall estimate the total cost to perform the

1 function and submit each agency in-house cost estimate to the State
2 Auditor for approval. If the agency has an internal auditor, the
3 agency shall submit its cost estimate to its internal auditor for
4 review before forwarding the cost estimate to the State Auditor.

5 SECTION 2.301. Article 13, State Purchasing and General
6 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
7 amended by adding Section 13.031 to read as follows:

8 Sec. 13.031. COMPLAINT FROM PRIVATE ENTERPRISE. (a) In
9 this section, "state agency" has the meaning assigned by Section
10 1.02 of this Act.

11 (b) A person, including a corporation, that manufactures,
12 processes, sells, leases, distributes, provides, or advertises
13 goods or services for profit, or a duly chartered nonprofit
14 corporation engaged in such activities, may file a written
15 complaint with the executive director of the commission and with
16 the administrative head of a state agency alleging that the state
17 agency has engaged in unfair competition with the person or
18 corporation. The agency shall respond to the complaint and shall
19 furnish the complainant and the commission with a copy of its
20 response not later than the 90th day after the date that the agency
21 receives the complaint.

22 (c) The commission shall keep a copy of each written
23 complaint and response received under this section on file and
24 available for public inspection for at least two years after the
25 date that it received the complaint or response.

26 (d) This section does not apply to:

27 (1) the Texas Department of Criminal Justice; or

1 (2) an institution of higher education as defined by
2 Section 61.003, Education Code.

3 SECTION 2.31. Section 13.05, State Purchasing and General
4 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 Sec. 13.05. DUTIES OF [~~STATE---PURCHASING---AND~~] GENERAL
7 SERVICES COMMISSION. (a) The commission by rule shall issue
8 instructions that govern the conduct of state agency management
9 studies under Section 13.03 of this article.

10 (b) The commission shall conduct a cost comparison review.
11 In conducting the cost comparison review, the commission shall:

12 (1) estimate the cost to purchase the service from the
13 private sector. In developing the estimate, the commission may use
14 specific area surveys, state average costs or current bid data;

15 (2) determine if the quality and quantity of service
16 that could be provided through purchase is at least equal to the
17 quality and quantity of service proposed in the agency management
18 study and in-house cost estimate;

19 (3) determine the total state cost incurred in
20 providing the service based on the approved agency in-house cost
21 estimate; and

22 (4) based on estimates of the total cost, compare the
23 total cost to the state to purchase the services with the total
24 state cost of providing the service.

25 (c) [~~(b)~~] After consultation with the agency and State
26 Auditor, the commission shall determine if the total state cost of
27 providing the service exceeds the cost of purchasing the service.

1 If the commission finds that at least the same quality and quantity
2 of service can be purchased at a savings of more than 10 percent,
3 the commission shall notify the chairman of the governing body of
4 the agency of the amount by which the agency's costs exceed the
5 costs of purchasing the service. The commission may request any
6 information from a state agency necessary to accomplish the purpose
7 of this subsection.

8 (d) The commission shall establish internal controls, when
9 the commission conducts competitive cost reviews of its own
10 commercial activity functions, to separate internally the duties
11 performed by the commission as a state agency subject to this
12 article and the duties performed by the commission for all state
13 agencies subject to this article.

14 SECTION 2.32. Section 13.07, State Purchasing and General
15 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
16 amended to read as follows:

17 Sec. 13.07. SAVINGS FROM EFFICIENCY INITIATIVE. Except for
18 savings allocated to the productivity bonus program [~~Article~~
19 ~~6252-297--Vernon's--Texas--Civil-Statutes~~7] and the state employee
20 incentive program (Article 6252-29a [6252-28], Vernon's Texas Civil
21 Statutes), all savings that result from reduced costs under the
22 efficiency initiative shall be used by the agency for treatment,
23 rehabilitation, or other direct services the agency provides to
24 persons it serves or, when savings result to the commission, for
25 direct services the commission provides to state government.

26 SECTION 2.33. Section 13.09, State Purchasing and General
27 Services Act (Article 601b, Vernon's Texas Civil Statutes), as

1 amended by Senate Bill No. 352, Acts of the 72nd Legislature,
2 Regular Session, 1991, is amended to read as follows:

3 Sec. 13.09. APPLICATION. The state agencies subject to this
4 article are:

5 (1) the Texas Department of Mental Health and Mental
6 Retardation;

7 (2) the Texas Department of Human Services;

8 (3) the Texas Department of Corrections;

9 (4) the Department of Agriculture;

10 (5) the Central Education Agency;

11 (6) the Texas Higher Education Coordinating Board;

12 [and]

13 (7) the State Department of Highways and Public
14 Transportation; and

15 (8) the commission.

16 SECTION 2.34. Article 13, State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended by adding Section 13.10 to read as follows:

19 Sec. 13.10. SUNSET REVIEW OF PROGRAM. (a) The competitive
20 cost review program is subject to Chapter 325, Government Code
21 (Texas Sunset Act), as if the program were a state agency subject
22 to review under that chapter. Unless continued in existence as
23 provided by that chapter, the program is abolished and this article
24 of this Act expires September 1, 1995.

25 (b) To the extent Chapter 325, Government Code (Texas Sunset
26 Act), imposes a duty on a state agency under review, the commission
27 shall perform the duty as it applies to the competitive cost review

1 program.

2 SECTION 2.35. Section 14.01, State Purchasing and General
3 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
4 amended to read as follows:

5 Sec. 14.01. DIVISION. The travel division of the commission
6 is composed of the central travel office and the office of vehicle
7 fleet maintenance. The commission shall adopt rules to implement
8 this article, including rules related to:

9 (1) the structure of travel agency contracts that the
10 commission makes;

11 (2) the procedures the commission uses in requesting
12 and evaluating bids or proposals for travel agency contracts from
13 providers; and

14 (3) the use of negotiated contract rates for travel
15 services by state agencies.

16 SECTION 2.36. Section 14.02, State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended by amending Subsection (b) and adding Subsection (c) to
19 read as follows:

20 (b) The central travel office shall initially provide
21 services to designated agencies located in Travis County and shall
22 extend its services to all state agencies as it develops the
23 capability to do so. The office may negotiate contracts with
24 private travel agents, with travel and transportation providers,
25 and with credit card companies that provide travel services and
26 other benefits to the state. The commission shall make contracts
27 with more than one provider of travel agency services. Contracts

1 entered into under this section are not subject to the competitive
2 bidding requirements imposed under Article 3 of this Act. The
3 comptroller of public accounts shall audit for compliance of rules
4 adopted to enforce the provisions of this section.

5 (c) State agencies in the executive branch of state
6 government shall participate in accordance with commission rules in
7 the commission's contracts for travel services, provided that
8 institutions of higher education as defined by Section 61.003,
9 Education Code, shall not be required to participate in the
10 commission's contracts for travel agency services. The commission
11 may provide by rule for exemptions from required participation.
12 Agencies of the state that are not required to participate in
13 commission contracts for travel services may participate as
14 provided by Subsection (a) of this section.

15 SECTION 2.37. Section 14.04, State Purchasing and General
16 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
17 amended to read as follows:

18 Sec. 14.04. FEES. Fees collected by the travel division
19 under this article shall be deposited in the State Treasury to the
20 credit of the General Revenue Fund unless a different disposition
21 of the funds is required under federal law.

22 SECTION 2.38. Article 3, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended by adding Section 3.202 to read as follows:

25 Sec. 3.202. PREFERENCE FOR ENERGY EFFICIENT PRODUCTS. The
26 commission shall give preference to energy efficient products in
27 purchases made under this Act if:

1 (1) the products meet state specifications as to
2 quantity and quality; and

3 (2) the cost of the product is equal to or less than
4 the cost of other similar products that are not energy efficient.

5 SECTION 2.39. Article 4, State Purchasing and General
6 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
7 amended by adding Section 4.081 to read as follows:

8 Sec. 4.081. NAMING OF PUBLIC BUILDINGS. Buildings owned by
9 the state, including buildings financed under the Texas Public
10 Finance Authority Act (Article 601d, Vernon's Texas Civil
11 Statutes), shall be named in accordance with the following
12 procedure:

13 (1) The Purchasing and General Services Commission, or
14 its successor, shall submit names proposed for new state buildings,
15 or proposals to re-name existing state buildings, to the presiding
16 officers of the house and senate.

17 (2) Approval of names to be placed on new state
18 buildings, or the re-naming of existing buildings, proposed by the
19 General Services Commission, shall only be authorized by concurrent
20 resolution passed in a regular or special session of the
21 legislature and signed by the governor.

22 PART 3. SCHOOL BUSES

23 SECTION 3.01. Section 21.165, Education Code, is amended to
24 read as follows:

25 Sec. 21.165. PURCHASE THROUGH GENERAL SERVICES COMMISSION
26 [BOARD--OF--CONTROL]. (a) The purchase of motor vehicles
27 (including buses, bus chassis, bus bodies, tires, and tubes) by the

1 General Services Commission [~~Board--of--Control~~] shall be made in
2 compliance with the provisions of this section.

3 (b) Whenever possible, the [~~The~~] purchase must be made on
4 the basis of competitive bids submitted under [~~such~~] rules [~~and~~
5 ~~regulations-as-may-be~~] made by the General Services Commission
6 [~~Board-of-Control~~].

7 (c) The purchase must be authorized by a requisition, which
8 may be submitted by either a board of county school trustees or the
9 board of trustees of a school district. The requisition must
10 include a general description of the article or articles desired,
11 as well as any other applicable matter specified in this section.

12 (d) If the requisition is for the purchase of a motor
13 vehicle, bus, bus body, or bus chassis, it must be approved by
14 either the county school board when funded under law or the board
15 of trustees of a school district and by the commissioner of
16 education.

17 (e) If the requisition is for the purchase of tires and
18 tubes, it must be approved by the county superintendent or the
19 chief administrative officer of a school district.

20 (f) If the requisition is for the purchase of special
21 equipment required, because of climatic or road conditions, to
22 guarantee adequate safety and comfort of school children, the
23 requisition must describe the special conditions and requirements
24 so that the General Services Commission [~~Board--of--Control~~] may
25 purchase equipment which it determines to be adapted or designed
26 for the conditions or requirements.

27 (g) The board of county school trustees or board of trustees

1 of a school district shall [~~requisition---must---contain---a~~
2 ~~certification---as--to--the-funds-that-will-be-available-to~~] pay for
3 the article or articles requisitioned as directed by the General
4 Services Commission.

5 SECTION 3.011. Section 21.174, Education Code, is amended by
6 adding Subsections (h) and (i) to read as follows:

7 (h) In this section, a vehicle is considered to be capable
8 of using compressed natural gas or other alternative fuels if the
9 vehicle is capable of using compressed natural gas or other
10 alternative fuels either in its original equipment engine or in an
11 engine that has been converted to use compressed natural gas or
12 other alternative fuels after September 1, 1991, unless the time
13 for compliance is extended pursuant to Subsection (i) of this
14 section.

15 (i) The General Services Commission may extend the date by
16 which a vehicle powered by a traditional gasoline or diesel engine
17 shall be capable of using compressed natural gas or other
18 alternative fuels as required under this section for one or more
19 periods of 90 days, but not beyond September 1, 1993, if it finds a
20 lack of ability to acquire such vehicles with original alternative
21 fuels equipment, to acquire such vehicles which are able to be
22 converted, or to convert such vehicles to use compressed natural
23 gas or other alternative fuels.

24 SECTION 3.02. Section 21.180, Education Code, is amended to
25 read as follows:

26 Sec. 21.180. PURCHASE OF VEHICLES. [~~(a)---Motor---vehicles~~
27 ~~used-for-the-purpose-of--transporting--school--children,--including~~

1 school--buses,--their--chassis--and/or-bodies-purchased-through-the
2 state-board-of-control,--shall-be-paid-for-by--the--state--board--of
3 control--as--set--out--in--applicable--laws.---The--legislature-may
4 appropriate-out-of-any-money-in-the-state--treasury--not--otherwise
5 appropriated--a--sum--not-exceeding-\$250,000,--or-as-much-thereof-as
6 necessary,--for-the-state-board-of--control--to--be--used--for--such
7 purposes.

8 [(b)--Any--sum--appropriated-shall-be-known-as-the-school-bus
9 revolving-fund.---When-motor-vehicles-and-school-buses-are-delivered
10 to-the--various--schools--coming--within--the--provisions--of--this
11 subchapter,--the--governing-bodies-of-those-schools-shall-reimburse
12 the-state-board-of-control-for-the-money-expended-for--such--school
13 buses--including-their-chassis-and/or-bodies-and-the-money-shall-be
14 deposited-by-the-state-board-of-control-in-the-school-bus-revolving
15 fund.

16 [(c)] All purchases of motor vehicles must comply with the
17 alternative fuels use requirements of Section 21.174.

18 SECTION 3.03. Subsections (a), (d), and (h), Section 21.182,
19 Education Code, are amended to read as follows:

20 (a) As an alternative to purchasing school buses, a county
21 or local district school board may contract with any person for
22 use, acquisition, or lease with option or options to purchase any
23 school bus or buses if, at the discretion of the school board, such
24 a contract is determined to be economically advantageous to the
25 school district and complies with the alternative fuels
26 requirements of Section 21.174. Contracts may be in the form of a
27 lease or a lease with option or options to purchase. A contract is

1 in the form of a lease if it is a contract for the use and
2 possession of one or more school buses for consideration.
3 Ownership of a bus acquired through a lease or a lease with an
4 option to purchase remains with the lessor unless the lessee
5 exercises an option to purchase and purchases the bus under the
6 option. A school bus that is leased or leased with an option to
7 purchase under this section must meet or exceed the requirements
8 related to safety that apply to purchased or privately operated
9 school buses under Section 11.12. Contracts in the form of an
10 installment purchase or any form other than a lease or a lease with
11 option or options to purchase shall be subject to the provisions of
12 Section 21.165, as well as rules [~~and-regulations~~] of the [~~State~~
13 ~~Purchasing-and~~] General Services Commission.

14 (d) The competitive bidding requirements of Section 21.901
15 apply to each contract in the form of a lease or lease with an
16 option to purchase under this section [~~Each-county-or-district~~
17 ~~school-board-shall-comply-with-the-terms-of-the--Bond--and--Warrant~~
18 ~~Law--of--1931--(Article--2368a7--Vernon's--Texas-Civil-Statutes)--in~~
19 ~~entering-into-contracts7-including--the--requirement--that--certain~~
20 ~~contracts-be-awarded-pursuant-to-public-bids7-except-that-it-is-not~~
21 ~~necessary--for-a-school-district-to-submit-the-question-of-entering~~
22 ~~into-a-contract-to-a-referendum~~].

23 (h) A contract under this section may have any lawful term
24 of not less than two or more than[~~7-not-to-exceed~~] 10 years. A
25 county or local district school board that contracts under this
26 section shall report the existence of the contract and the number
27 of buses under the contract to the General Services Commission

1 within 45 days after the date the contract was made. A county or
2 local district school board that terminates a contract under this
3 section before the two-year minimum term has expired shall report
4 the termination and the reason for the termination to the General
5 Services Commission within 45 days after the date the contract was
6 terminated.

7 SECTION 3.04. Section 21.901, Education Code, is amended by
8 amending Subsections (a) and (b) and adding Subsections (h) and (i)
9 to read as follows:

10 (a) Except as provided in this section, all contracts
11 proposed to be made by any Texas public school board for the
12 purchase of any personal property except for produce or vehicle
13 fuel, shall be submitted to competitive bidding for each of the six
14 month periods beginning September 1 and March 1 when said property
15 is valued at \$15,000 [~~\$10,000~~] or more.

16 (b) Except as provided in Subsection (e) of this section,
17 all contracts proposed to be made by any Texas public school board
18 for the construction, maintenance, repair or renovation of any
19 building or for materials used in said construction, maintenance,
20 repair or renovation, shall be submitted to competitive bidding
21 when said contracts are valued at \$15,000 [~~\$10,000~~] or more. In
22 this section, maintenance includes supervision of custodial, plant
23 operations, maintenance, and ground services personnel.

24 (h) Whenever possible, each contract proposed to be made by
25 any Texas public school board for the lease of one or more school
26 buses, including a lease with an option to purchase, shall be
27 submitted to competitive bidding when the contract is valued at

1 \$10,000 or more.

2 (i) The board of trustees of a school district that
3 determines it to be in the best interests of the district may
4 delegate to a professional food services management company the
5 authority to purchase the food and supplies required in the
6 performance of a food service management contract between the
7 school district and the professional food services management
8 company if:

9 (1) the professional food services management company
10 is selected by the board on a competitive basis; and

11 (2) the food and supplies are purchased by the
12 professional food services management company in accordance with
13 the terms of the management contract. Neither the professional
14 food services management company nor the school district is
15 required to comply with Subsection (a) or (d) of this section for
16 the purpose of purchasing the food and supplies.

17 SECTION 3.05. Subchapter Z, Chapter 21, Education Code, is
18 amended by adding Section 21.9013 to read as follows:

19 Sec. 21.9013. PURCHASES UNDER \$15,000. (a) A school
20 district shall purchase personal property for each of the six-month
21 periods beginning September 1 and March 1 as provided by this
22 section if the value of the property is at least \$10,000 but less
23 than \$15,000, unless the district elects to submit a contract for
24 the purchase to competitive bidding.

25 (b) Each six-month period, the district shall publish a
26 notice in a newspaper with general circulation in the county in
27 which the district is located specifying the categories of personal

1 property to be purchased and soliciting the names, addresses, and
2 telephone numbers of vendors that are interested in supplying any
3 of those categories to the district. For each category, the
4 district shall create a vendor list consisting of each vendor that
5 responded to the published notice and any additional vendors the
6 district elects to include.

7 (c) Before the district makes a purchase from a category of
8 personal property, the district must contact at least three vendors
9 from the list regarding pricing information for that category. If
10 fewer than three vendors are on the list, the district shall
11 contact each vendor on the list.

12 SECTION 3.06. Subchapter Z, Chapter 21, Education Code, is
13 amended by adding Section 21.9014 to read as follows:

14 Sec. 21.9014. ADJUSTMENT OF DOLLAR LIMITS OVER WHICH
15 COMPETITIVE BIDDING IS REQUIRED. (a) The \$15,000 limit over which
16 competitive bidding is required that is specified in Subsections
17 (a) and (b) of Section 21.901 of this code and Section 21.9013 of
18 this code shall remain in effect until the 1993-94 school year.
19 Beginning in that school year, and annually thereafter, the dollar
20 limitation shall be adjusted in accordance with this section.

21 (b)(1) The Comptroller of Public Accounts shall determine
22 the percentage increase in the Consumer Price Index for All Urban
23 Consumers, published by the Bureau of Labor Statistics of the
24 United States Department of Labor, for the 12 month period ending
25 the November 30th preceding the start of the 1993-94 school year.

26 (2) The Comptroller of Public Accounts shall calculate
27 the dollar amount that results if the \$15,000 amount is increased

1 by the same percentage increase in the Consumer Price Index
2 calculated in (1) above.

3 (3) This new amount rounded up to the nearest \$100, or
4 \$16,000, whichever is less, shall be the new dollar amount
5 replacing the \$15,000 limitation in the sections referenced in
6 Subsection (a) of this section for the 1993-94 school year. The
7 Comptroller of Public Accounts shall publish in the Texas Register
8 in the February before the 1993-94 school year what the adjusted
9 dollar amount will be for the 1993-94 school year.

10 (4) For each subsequent school year, the annual
11 percentage increase in the Consumer Price Index will continue to be
12 calculated by the Comptroller in January before the next school
13 year. The increase will be applied to the dollar limitations
14 covered by this section in effect at that time. The dollar amount,
15 rounded up to the nearest \$100, resulting from application of the
16 percentage increase in the Consumer Price Index shall become the
17 new adjusted amount, provided that in no year can the adjusted
18 amount exceed the prior year limitation by more than \$1,000. In
19 that case, the adjustment shall be limited to \$1,000 more than the
20 prior year's limitation. The Comptroller of Public Accounts shall
21 continue to publish in February before the next school year what
22 the adjusted dollar amount will be for that school year.

23 PART 4. ARCHITECTURAL BARRIERS

24 SECTION 4.01. Article 7, State Purchasing and General
25 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
26 transferred to Title 132A, Revised Statutes, redesignated as
27 Article 9101, Revised Statutes, and amended to read as follows:

1 Art. 9101 [~~ARTICLE-7~~]. ARCHITECTURAL BARRIERS

2 Sec. 1 [~~7-01~~]. POLICY. The provisions of this article are
3 to further the policy of the State of Texas to encourage and
4 promote the rehabilitation of persons with disabilities
5 [~~handicapped--or--disabled--citizens~~] and to eliminate, insofar as
6 possible, unnecessary barriers encountered by [~~aged,--handicapped,~~
7 ~~or--disabled~~] persons with disabilities, whose ability to engage in
8 gainful occupations or to achieve maximum personal independence is
9 needlessly restricted when such persons cannot readily use public
10 buildings.

11 Sec. 2 [~~7-02~~]. APPLICATION. (a) The standards and
12 specifications adopted under this article shall apply to all
13 buildings and facilities used by the public which are constructed
14 in whole or in part by the use of state, county, or municipal
15 funds, or the funds of any political subdivision of the state. To
16 such extent as is not contraindicated by federal law or beyond the
17 state's power of regulation, these standards shall also apply to
18 buildings and facilities constructed in this state through partial
19 or total use of federal funds. All buildings and facilities
20 constructed in this state, or substantially renovated, modified, or
21 altered, after the effective date of this article from any one of
22 these funds or any combination thereof shall conform to each of the
23 standards and specifications adopted under this article except
24 where the governmental department, agency, or unit concerned shall
25 determine, after taking all circumstances into consideration, that
26 full compliance with any particular standard or specification is
27 impracticable. Where it is determined that full compliance with

1 any particular standard or specification is impractical, the
2 reasons for such determination shall be set forth in written form
3 by those making the determination and forwarded to the department
4 [commission]. If it is determined that full compliance is not
5 practicable, there shall be substantial compliance as determined by
6 the department with the standard or specification to the maximum
7 extent practical, and the file system maintained by the department
8 shall include the written record of the determination that it is
9 impractical to comply fully with a particular standard or
10 specification and shall also set forth the extent to which an
11 attempt will be made to comply substantially with the standard or
12 specification.

13 (b) These standards and specifications shall be adhered to
14 in those buildings and facilities under construction on the
15 effective date of this article, unless the authority responsible
16 for the construction shall determine that the construction has
17 reached a state where compliance is impractical. This article
18 shall apply to temporary or emergency construction as well as
19 permanent buildings.

20 (c) These standards and specifications shall be adhered to
21 in all buildings leased or rented in whole or in part for use by
22 the state under any lease or rental agreement entered into on or
23 after January 1, 1972. To such extent as is not contraindicated by
24 federal law or beyond the power of the state's regulation, these
25 standards shall also apply to buildings or facilities leased or
26 rented for use by the state through partial or total use of federal
27 funds. Facilities which are the subject of lease or rental

1 agreements on January 1, 1972, will not be required to meet
2 standards and specifications for the term of the existing lease or
3 rental agreement but must be brought into compliance before a lease
4 or rental agreement is renewed. Where it is determined by the
5 governmental department, agency, or unit concerned that full
6 compliance with any particular standard is impractical, the reasons
7 for such determination shall be set forth in written form by those
8 making the determination and forwarded to the department
9 ~~[commission]~~. If it is determined that full compliance is not
10 practical, there shall be substantial compliance as determined by
11 the department with the standard or specification to the maximum
12 extent practical, and the file system maintained by the department
13 shall include the written record of the determination that it is
14 impractical to comply fully with a particular standard or
15 specification and shall also set forth the extent to which an
16 attempt will be made to comply substantially with the standard or
17 specification.

18 (d) Except as otherwise provided in Subsection (e) of this
19 section, these standards and specifications shall be adhered to in
20 buildings defined as "public accommodation" by Section 301(7) of
21 the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336)
22 which are constructed or substantially renovated, modified, or
23 altered on or after January 1, 1992 ~~[certain--privately--financed~~
24 ~~buildings,--building-elements,--and-improved-areas-which-are-open-to~~
25 ~~public--use---for---education,---employment,---transportation,---or~~
26 ~~acquisition--of-goods-and-services,--and-which-are-constructed-on-or~~
27 ~~after-January-1,--1978,--in-counties-with-a-population-of--45,000--or~~

1 more.---Such-facilities-include-the-following:

2 [(1) --shopping--centers-which-contain-in-excess-of-five
3 separate-mercantile-establishments;-compliance--with--accessibility
4 standards--and--specifications--relative--to-toilet-rooms-shall-not
5 apply-unless-the-shopping--center--elects--to--have--public--toilet
6 rooms;

7 [(2) --passenger-transportation-terminals;

8 [(3) --theaters---and---auditoriums---having--a--seating
9 capacity-for-200-or-more-patrons;

10 [(4) --hospitals-and-related--medical--facilities--which
11 provide-direct-medical-service-to-patients;

12 [(5) --nursing-homes-and-convalescent-centers;

13 [(6) --buildings-containing-an-aggregate-total-of-20,000
14 or-more-square-feet-of-recognizable-office-floor-space;

15 [(7) --funeral-homes;-and

16 [(8) --commercial-business-and-trade-schools].

17 (e) The commissioner [~~commission~~] shall have the authority
18 to waive or modify accessibility standards and specifications when
19 application of such standards and specifications is considered by
20 the commissioner [~~commission~~] to be irrelevant to the nature, use,
21 or function of a building or facility covered by this article. The
22 commissioner [~~commission~~] shall not waive or modify any standard or
23 specification when such action would result in a significant
24 impairment of the acquisition of goods and services by
25 [handicapped] persons with disabilities or substantially reduce the
26 potential for employment of [handicapped] persons with
27 disabilities. All evidence supporting waiver or modification

determinations made by the commissioner [~~commission~~] shall be made a matter of record and become part of the file system maintained by the department [~~commission~~].

(f) All buildings and facilities covered by this article shall provide restroom facilities in conformance with the minimum plumbing facilities standards set forth in Appendix C of the Uniform Plumbing Code.

Sec. 3 [7-03]. SCOPE. (a) This article is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(b) It is intended to make all buildings and facilities covered by this article accessible to, and functional for, persons with disabilities [~~the--physically--handicapped~~] to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Sec. 4 [7-04]. DEFINITIONS. For the purpose of this article the following terms have the meanings as herein set forth:

(1) "Nonambulatory disabilities" means impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs.

(2) "Semiambulatory disabilities" means impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory. The listing here made is illustrative and shall not be construed as being exhaustive.

1 (3) "Sight disabilities" means total blindness or
2 impairments affecting sight to the extent that the individual
3 functioning in public areas is insecure or exposed to danger.

4 (4) "Hearing disabilities" means deafness or hearing
5 handicaps that might make an individual insecure in a public area
6 because he is unable to communicate or hear warning signals.

7 (5) "Disabilities of coordination" means faulty
8 coordination or palsy from brain, spinal, or peripheral nerve
9 injury.

10 (6) "Aging" means those manifestations of the aging
11 processes that significantly reduce mobility, flexibility,
12 coordination, and perceptiveness but are not accounted for in the
13 aforementioned categories.

14 (7) "Commission" means the Texas Commission of
15 Licensing and Regulation.

16 (8) "Commissioner" means the commissioner of licensing
17 and regulation.

18 (9) "Department" means the Texas Department of
19 Licensing and Regulation.

20 (10) "Architect" means a person registered as an
21 architect under Chapter 478, Acts of the 45th Legislature, Regular
22 Session, 1937 (Article 249a, Vernon's Texas Civil Statutes).

23 (11) "Engineer" means a person registered as an
24 engineer under The Texas Engineering Practice Act (Article 3271a,
25 Vernon's Texas Civil Statutes).

26 Sec. 5 [7-05]. RESPONSIBILITIES FOR ENFORCEMENT. (a) In
27 the [The-responsibility-for] administration and enforcement of this

1 article [~~shall-reside--primarily--in--the--commission~~], [but] the
2 commissioner [~~commission~~] shall have the assistance of appropriate
3 state rehabilitation agencies in carrying out commissioner [~~its~~]
4 responsibilities [~~under-this-article~~]. State agencies involved in
5 extending direct services to [~~disabled-or-handicapped~~] persons with
6 disabilities are authorized to enter into interagency contracts
7 with the department [~~commission~~] to provide such additional funding
8 as might be required to insure that service objectives and
9 responsibilities of such agencies are achieved through the
10 administration of this article. In enforcing this article the
11 commissioner [~~commission~~] shall also receive the assistance of all
12 appropriate elective or appointive state officials. The
13 commissioner may contract with other state agencies, political
14 subdivisions, nonprofit organizations, and private independent
15 contractors to perform the commissioner's review and inspection
16 functions for privately financed buildings that are not leased by
17 the state or a political subdivision and may terminate those
18 contracts for cause. The department [~~commission~~] shall from time
19 to time inform professional organizations and others, including
20 persons with disabilities, architects, engineers, and other
21 building professionals, of this law and its application.
22 Information disseminated by the department about the program shall
23 include the types of buildings and leases covered by this article,
24 the procedures for submitting plans and specifications for review,
25 complaint procedures, and the address and phone number of the
26 department's program. The department may enter into cooperative
27 agreements to integrate information about the program with

1 information produced or distributed by other public entities or by
2 private entities.

3 (b) The commissioner [~~commission~~] shall have all necessary
4 powers to require compliance with the commissioner's [~~its~~] rules
5 and regulations and modifications thereof and substitutions
6 therefor, including powers to institute and prosecute proceedings
7 under Section 18, Article 9100, Revised Statutes [~~in--the--district~~
8 ~~court--to-compel-such-compliance~~], and shall not be required to pay
9 any entry or filing fee in connection with the institution of such
10 proceedings. The commission may also impose an administrative
11 penalty under Section 17, Article 9100, Revised Statutes, on a
12 building owner for a violation of this article or a rule adopted
13 under this article. Each day that the violation is not corrected
14 constitutes a separate violation. The commissioner [~~commission~~] or
15 a [~~handicapped~~] person with disabilities who seeks injunctive
16 relief to obtain compliance with the rules and regulations, and the
17 commissioner when the commission considers imposing an
18 administrative penalty under this section, shall first notify a
19 person responsible for the building and allow that person 90 days
20 to bring the building into compliance. The commissioner
21 [~~commission~~] shall have the authority to extend the 90-day period
22 when circumstances justify such extension.

23 (c) [~~The--commission--is-authorized-to-promulgate-such-rules~~
24 ~~and-regulations-as-might-reasonably-be-required--to--implement--and~~
25 ~~enforce--this--article.~~] The standards and specifications to be
26 adopted by the commissioner [~~commission~~] under this article shall
27 be consistent in effect to those adopted by the American National

Standards Institute, Inc. (or its federally recognized successor in function), and the department [~~commission~~] shall publish the standards and specifications in a readily accessible form for the use of interested parties.

(d) All plans and specifications for construction or for the substantial renovation, modification, or alteration of buildings subject to the provisions of this article shall be submitted to the department [~~commission~~] for review and approval prior to the time that construction or that substantial renovation, modification, or alteration on the building begins [~~bidding-and-award--of--contract~~] in accordance with rules and regulations adopted by the commissioner [~~commission~~]. The plans and specifications shall be submitted to the department by the architect or engineer who has overall responsibility for the design of the constructed or reconstructed building. The building owner shall submit the plans and specifications to the department if there is no architect or engineer with that responsibility. Likewise, any substantial modification of approved plans shall be resubmitted to the department [~~commission~~] for review and approval. If an architect or engineer required to submit or resubmit plans and specifications to the department fails to do so in a timely manner, the commissioner shall report the fact to the Texas Board of Architectural Examiners or the State Board of Registration for Professional Engineers, as appropriate.

(e) The commissioner [~~commission~~] may review plans and specifications, make inspections, and issue certifications that structures not otherwise covered by this article are free of

1 architectural barriers and in compliance with the provisions of
2 this article. The department shall inspect each building subject
3 to this article within the first year after the date that
4 construction or substantial renovation, modification, or alteration
5 of the building is completed. The department shall inspect each
6 building that is subject to this article because of a lease to the
7 state during the first year of the lease [~~commission-is--authorized~~
8 ~~to--charge--a--fee,--not--to--exceed--\$100,--for--review--of--plans--and~~
9 ~~specifications,--inspection,--and--certification--of--each--privately~~
10 ~~owned--building--or--facility.~~

11 [~~{f}--With--respect--to--buildings--and--facilities--that--are--under~~
12 ~~the--jurisdiction--and--control--of--The--University--of--Texas--Board--of~~
13 ~~Regents,--the--responsibility--for--administration--and--enforcement--of~~
14 ~~this--article--shall--reside--in--such--governing--board,--and--in--the~~
15 ~~discharge--of--such--responsibility--the--governing--board--shall--have--the~~
16 ~~same--responsibilities,--duties,--powers,--and--authority--that--are~~
17 ~~herein--imposed--on--and--delegated--to--the--commission--with--respect--to~~
18 ~~all--other--buildings--and--facilities--covered--by--this--article].~~

19 Sec. 6. The commission shall set and charge, in accordance
20 with Section 12, Article 9100, Revised Statutes, fees for
21 performing its functions under this article. The fees shall be
22 paid by the owner of a building when the department performs a
23 function related to the building under this article. The fees must
24 include a fee for:

25 (1) reviewing the plans or specifications of a
26 building;

27 (2) inspecting a building; and

1 (3) processing a request to waive or modify
2 accessibility standards for a building.

3 Sec. 7. (a) The commission shall appoint an advisory
4 committee for the architectural barriers program. The committee
5 shall be composed of building professionals and persons with
6 disabilities who are familiar with architectural barrier problems
7 and solutions. The committee shall be composed of at least eight
8 members. Persons with disabilities must make up a majority of the
9 membership.

10 (b) A committee member serves at the will of the commission.
11 A member may not receive compensation for service on the committee
12 but is entitled to reimbursement for actual and necessary expenses
13 incurred in performing functions as a member.

14 (c) The committee shall elect a member of the committee as
15 chair. The committee shall meet at least twice each calendar year
16 at the call of the committee chair or at the call of the
17 commissioner.

18 (d) The committee periodically shall review the rules
19 relating to the architectural barriers program and recommend
20 changes in the rules to the commission and the commissioner. The
21 commissioner shall submit all proposed changes to rules and
22 procedures that relate to the architectural barriers program to the
23 committee for review and comment before adoption or implementation
24 of the new or amended rule or procedure.

25 Sec. 8. All references in law to the former architectural
26 barriers statute, Article 7, State Purchasing and General Services
27 Act (Article 601b, Vernon's Texas Civil Statutes), mean this

1 article.

2 SECTION 4.02. Section 11(b), Chapter 478, Acts of the 45th
3 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
4 Civil Statutes), as amended by Senate Bill No. 429, Acts of the
5 72nd Legislature, Regular Session, 1991, is amended to read as
6 follows:

7 (b) The Board may revoke or suspend a registration
8 certificate, place on probation a person whose registration
9 certificate has been suspended, reprimand a person registered under
10 this Act, or assess an administrative penalty against a person
11 registered under this Act in an amount not to exceed \$1,000 on the
12 following grounds:

13 (1) a violation of this Act or of a rule of the Board
14 adopted under this Act;

15 (2) a cause for which the Board is authorized to
16 refuse to grant a registration certificate;

17 (3) gross incompetency;

18 (4) recklessness in the construction or alteration of
19 a building by an architect designing, planning, or observing the
20 construction or alteration; [or]

21 (5) dishonest practice by one holding a registration
22 certificate; or

23 (6) for failing to timely provide plans and
24 specifications to the Texas Department of Licensing and Regulation
25 as required by Article 9101, Revised Statutes.

26 SECTION 4.03. Subsection (a), Section 22, The Texas
27 Engineering Practice Act (Article 3271a, Vernon's Texas Civil

1 Statutes), is amended to read as follows:

2 (a) The Board shall revoke, suspend, or refuse to renew a
3 registration, shall reprimand a registrant, may deny an application
4 for registration, or may probate any suspension of any registrant
5 who is determined by the Board to be censurable for:

6 (1) The practice of any fraud or deceit in obtaining a
7 certificate of registration;

8 (2) Any gross negligence, incompetency, or misconduct
9 in the practice of professional engineering as a registered
10 professional engineer;

11 (3) Any documented instance of retaliation by an
12 applicant against an individual who has served as a reference for
13 that applicant; [or]

14 (4) A violation of this Act or a Board rule; or

15 (5) A failure to timely provide plans and
16 specifications to the Texas Department of Licensing and Regulation
17 as required by Article 9101, Revised Statutes.

18 PART 5. OTHER MATTERS RELATING TO STATE

19 ACQUISITION OF PROPERTY AND SERVICES

20 SECTION 5.01. Section 497.027(a), Government Code, as
21 renumbered by Chapter 16, Acts of the 72nd Legislature, Regular
22 Session, 1991, is amended to read as follows:

23 (a) An agency of the state that purchases articles and
24 products under this subchapter must requisition the purchase
25 through the [State--Purchasing--and] General Services Commission
26 except for purchases of items or services not included in an
27 established contract. The purchase of items not included in an

1 established contract and that do not exceed the dollar limits
2 established under Section 3.08(a), State Purchasing and General
3 Services Act (Article 601b, Vernon's Texas Civil Statutes), may be
4 acquired directly from the department on the agency's obtaining an
5 informal or a formal quotation for the item and issuing a proper
6 purchase order to the department.

7 SECTION 5.02. Section 9, Texas Public Finance Authority Act
8 (Article 601d, Vernon's Texas Civil Statutes), is amended to read
9 as follows:

10 Sec. 9. ISSUANCE OF BONDS. (a) The board may issue and
11 sell bonds in the name of the authority to finance projects that
12 consist of the acquisition or construction of buildings in Travis
13 County, Texas. Upon receiving a request described in Section 5.34,
14 State Purchasing and General Services Act (Article 601b, Vernon's
15 Texas Civil Statutes), the board may issue bonds in amounts up to
16 the previously authorized amount of bonds plus five percent of the
17 acquisition cost of the property, all as described in the request.

18 (b) When the acquisition or construction of a building has
19 been authorized in accordance with this Act or under Section 5.34,
20 State Purchasing and General Services Act (Article 601b, Vernon's
21 Texas Civil Statutes), the board shall promptly issue and sell
22 bonds in the name of the authority under this Act, including
23 Sections 10B and 16 of this Act, to finance the acquisition or
24 construction of the building. When the proceeds from the bond
25 issuance are available, the board shall promptly deposit the
26 proceeds in the state treasury under Section 23 of this Act and
27 shall promptly make the determinations that are to be made by the

1 board under Section 23 of this Act.

2 (c) The commission or other state agency involved in
3 acquiring or constructing a building financed by the issuance of
4 bonds under this Act shall carry out its statutory authority as if
5 the building were financed by legislative appropriation. The board
6 and either the commission or another state agency involved in the
7 acquisition or construction of a building shall adopt a memorandum
8 of understanding that defines the division of authority between the
9 board and the commission or agency.

10 SECTION 5.03. Section 27, Texas Public Finance Authority Act
11 (Article 601d, Vernon's Texas Civil Statutes), as amended by
12 Chapters 786 and 1042, Acts of the 71st Legislature, Regular
13 Session, 1989, is amended to read as follows:

14 Sec. 27. PURCHASE AND RENOVATION OF TEXAS EMPLOYMENT
15 COMMISSION PROPERTY. (a) The Texas Employment Commission shall
16 sell to the commission office buildings and parking facilities in
17 its possession in or near the Capitol Complex, and the commission
18 shall purchase the buildings and parking facilities, at a sales
19 price that shall not exceed the maximum amount of funds authorized
20 for the acquisition and renovation in Chapter 700, Acts of the 68th
21 Legislature, Regular Session, 1983. [~~The sale shall be under an~~
22 ~~agreement--between--the--Texas--Employment--Commission--and--the~~
23 ~~commission--on--a--price-sufficient-to-provide-the-Texas-Employment~~
24 ~~Commission-adequate,-alternative-office-and-parking--space--outside~~
25 ~~the--Capitol--Complex--and--with--the--necessary-concurrence-of-the~~
26 ~~United-States-government.~~]

27 (b) [~~The commission shall, under an agreement with the Texas~~

1 Employment-Commission-and-subject--to--the--availability--of--funds
2 authorized--by--this-Act,-purchase-the-office-buildings-and-parking
3 facilities-of-the-Texas-Employment-Commission-located--in--or--near
4 the--Capitol--Complex-] After the office buildings have been
5 acquired, the commission may, from funds made available by the
6 authority, renovate the facilities as necessary for occupancy by
7 other state agencies. In negotiating the price for the Texas
8 Employment Commission facilities, the commission shall consider the
9 cost to the Texas Employment Commission of alternative space
10 outside the Capitol Complex. The commission shall also consider
11 the price in the context of the reasonable rates that might
12 otherwise be paid by prospective occupying state agencies for rent
13 in comparable space.

14 [~~Sec.-27.-(a)-The-State--Purchasing--and--General--Services~~
15 ~~Commission--may-take-possession-of-the-office-buildings-and-parking~~
16 ~~facilities-in-or-near-the-Capitol-Complex--occupied--by--the--Texas~~
17 ~~Employment--Commission.---To--take-possession--the-State-Purchasing~~
18 ~~and-General-Services-Commission-must-provide-the--Texas--Employment~~
19 ~~Commission--adequate,-alternative--office-and-parking-space-in-the~~
20 ~~city-of-Austin-and-obtain-the-necessary--concurrence--that--may--be~~
21 ~~required--by--the--United--States--government.---On--receiving-that~~
22 ~~concurrence,-title-to-the-property-is-in-the-State--Purchasing--and~~
23 ~~General--Services--Commission,-and--the--employment-commission-and~~
24 ~~purchasing-commission-shall-execute-the-documents-necessary-to-show~~
25 ~~title-in-the-purchasing-commission-~~

26 [~~(b)-If-the-State-Purchasing-and-General-Services-Commission~~
27 ~~takes-possession-of-the-office-buildings-and-parking-facilities--of~~

1 the--Texas--Employment--Commission--located--in-or-near-the-Capitol
2 Complex, the-State-Purchasing-and-General-Services-Commission--may,
3 from--funds-made-available-by-the-authority-or-from-other-available
4 funds, renovate-the-facilities-as-necessary-for-occupancy-by--other
5 state--agencies--or--by--the--legislature--or-legislative-agencies.
6 Before-renovating-the-facilities-or-making-the-facilities-available
7 for-occupancy-to-a-state-agency, the--purchasing--commission--shall
8 offer--the-space-to-the-legislature-for-its-use-and-occupancy.--For
9 that-purpose, the-purchasing-commission-shall-notify-the-lieutenant
10 governor-and-the-speaker-of-the-house-in-writing, who-may-claim-the
11 property--for--the--use--and--occupancy--of--the--legislature---and
12 legislative--agencies-by-delivering-a-written-notice-signed-by-both
13 officers-to-the-executive-director-of-the-commission.---The--notice
14 must--be--delivered--to-the-executive-director-before-the-120th-day
15 after-the-date-on--which--those--officers--receive--notice--of--the
16 availability-of-the-property.

17 [(c) --If--at-any-time-the-lieutenant-governor-and-the-speaker
18 deliver-a-written-notice, signed-by-each, to-the-executive-director
19 of-the-purchasing-commission-stating-that-the-employment-commission
20 facilities-in--or--near--the--Capitol--Complex--are--necessary--for
21 legislative-use-and-occupancy, the-property-shall-be-made-available
22 for--that--use-and-occupancy-as-soon-as-possible-but-not-later-than
23 the-second-anniversary-of-the-date-on-which-the-executive--director
24 of---the---purchasing--commission--receives--the--notice--from--the
25 lieutenant-governor-and-the-speaker.--If-the-employment--commission
26 is-at-that-time-in-possession-of-the-property.

27 [(1) --the--purchasing--commission-shall-take-possession

1 of-the-property-and-the--employment--commission--shall--vacate--the
2 property;

3 [(2) --from--funds--made--available--by-the-authority-or
4 from-funds-appropriated-for-that-purpose,--the-purchasing-commission
5 shall--purchase--or--construct--adequate,--alternative--office--and
6 parking-space-in-the-city-of-Austin-for-the--employment--commission
7 and--shall-obtain-the-necessary-concurrence-that-may-be-required-by
8 the-United-States-government;--and

9 [(3) --on--receiving--that--concurrence,--title--to--the
10 property--is--in--the--purchasing--commission--and--the--purchasing
11 commission-and-employment-commission-shall--execute--the--documents
12 necessary-to-show-title-in-the-purchasing-commission-

13 [(d) --Subject--to--the--availability-of-funds,--the-purchasing
14 commission-may-renovate-facilities--purchased--for--the--employment
15 commission-as-necessary-for-occupancy-by-the-employment-commission-
16 Any--available-funds-remaining-after-purchase-and-renovation-of-the
17 facilities-for--the--employment--commission--may--be--used--by--the
18 purchasing--commission-to-renovate-the-facilities-of-the-employment
19 commission--transferred--under--this--section--as---necessary---for
20 occupancy--by--state--agencies--or--the-legislature-and-legislative
21 agencies-]

22 SECTION 5.04. Subchapter Z, Chapter 51, Education Code, is
23 amended by adding Section 51.926 to read as follows:

24 Sec. 51.926. WRITTEN CONTRACTS OR AGREEMENTS BETWEEN CERTAIN
25 INSTITUTIONS. (a) In this section, "governing board" and
26 "institution of higher education" have the meanings assigned by
27 Section 61.003 of this code.

1 (b) A written contract or agreement for the furnishing of
2 resources or services that is between institutions of higher
3 education with a common governing board is not subject to the
4 requirements of Chapter 771, Government Code, if the governing
5 board has adopted rules providing for governing board review and
6 approval of those contracts.

7 SECTION 5.05. Subchapter E, Chapter 12, Health and Safety
8 Code, is amended by adding Section 12.053 to read as follows:

9 Sec. 12.053. INVENTORY REQUIREMENTS. All equipment and
10 supplies which are purchased through a program, contract, or grant
11 with the department by or for qualified entities, including but not
12 limited to individuals, corporations, local units of government and
13 other state agencies and that are used to promote and maintain
14 public health are exempt from the statewide personal property
15 accounting system administered by the comptroller of public
16 accounts described in Subchapter K, Chapter 403, Government Code.
17 The qualified entities shall maintain complete equipment and supply
18 records. The department may request the return of any usable
19 equipment or supplies purchased with funds provided by the
20 department upon the termination of the program, contract, or grant.

21 SECTION 5.06. Section 481.027, Government Code, is amended
22 by amending Subsections (a) and (b) and adding Subsections (e) and
23 (f) to read as follows:

24 (a) The department shall maintain and operate offices in
25 foreign countries for the purposes of promoting investment that
26 generates jobs in Texas, exporting of Texas products, tourism, and
27 international relations for Texas. The offices shall be named "The

1 State of Texas" offices. To the extent permitted by law, other
2 state agencies that conduct business in foreign countries may place
3 staff in the offices established by the department and share the
4 overhead and operating expenses of the offices. Other state
5 agencies and the department may enter interagency contracts for
6 this purpose. Chapter 771 does not apply to those contracts. Any
7 purchase for local procurement or contract in excess of \$5,000
8 shall be approved by the executive director prior to its execution.

9 (b) The offices shall be accessible to Texas-based
10 institutions of higher education and their nonprofit affiliates for
11 the purposes of fostering Texas science, technology, and research
12 development, international trade and investment, and cultural
13 exchange. The department and the institutions may enter contracts
14 for this purpose. Chapter 771 does not apply to those contracts.

15 (e) Articles 8 and 9, State Purchasing and General Services
16 Act (Article 601b, Vernon's Texas Civil Statutes), apply to the
17 operation and maintenance of the offices. No other provisions of
18 that Act apply to the operation and maintenance of the offices, or
19 to transactions of the department that are authorized by this
20 section.

21 (f) The General Services Commission may, at the request of a
22 state agency, provide to the agency services exempted from the
23 application of the State Purchasing and General Services Act
24 (Article 601b, Vernon's Texas Civil Statutes) under Subsection (e).
25 Chapter 771 does not apply to services provided under this
26 subsection. The commission shall establish a system of charges and
27 billings that ensures recovery of the cost of providing the

1 services and shall submit a purchase voucher or a journal voucher,
2 after the close of each month, to the agency for which services
3 were performed.

4 SECTION 5.061. Section 497.026(b), Government Code, as
5 renumbered and amended by Chapter 16, Acts of the 72nd Legislature,
6 Regular Session, 1991, is amended to read as follows:

7 (b) If the [~~State---Purchasing---and~~] General Services
8 Commission determines that an article or product produced by the
9 institutional division under this subchapter does not meet the
10 requirements of an agency of the state or a political subdivision,
11 or that the institutional division of the Texas Department of
12 Criminal Justice determines that the division is unable to fill a
13 requisition for an article or product, the agency or subdivision
14 may purchase the article or product from another source.

15 SECTION 5.062. Section 497.027, Government Code, as
16 renumbered by Chapter 16, Acts of the 72nd Legislature, Regular
17 Session, 1991, is amended by adding 497.027(c) to read as follows:

18 (c) If an agency or political subdivision purchasing goods
19 under this subchapter desires to purchase goods or articles from
20 the division, it may do so without complying with any other state
21 law otherwise requiring the agency or political subdivision to
22 request competitive bids for the article or product. Nothing
23 herein shall be interpreted to require a political subdivision to
24 purchase goods or articles from the division if the political
25 subdivision determines that the goods or articles can be purchased
26 elsewhere at a lower price or an agency to purchase goods or
27 articles from the division if the agency determines, and the

1 General Services Commission certifies, that the goods or articles
2 can be purchased elsewhere at a lower price.

3 SECTION 5.07. Section 9(i), Information Resources Management
4 Act (Article 4413(32j), Vernon's Texas Civil Statutes), is amended
5 to read as follows:

6 (i) The department shall establish an information resources
7 technology evaluation center for use by the department and other
8 state agencies. The powers, objectives, and duties of the center
9 shall include the following:

- 10 (1) to conduct technology-related research;
- 11 (2) to support the appropriate use of technology to
12 deliver publicly needed services;
- 13 (3) to collect, analyze, and assimilate information on
14 all areas of communications and computing;
- 15 (4) to expedite the creation of advance networking and
16 computing system services;
- 17 (5) to improve the state's research and economic
18 competitiveness;
- 19 (6) to conduct studies, investigations, and research
20 designed to produce strategic plans for the use of technology in
21 public services;
- 22 (7) to use research generated in the private sector to
23 accomplish the objectives and perform the duties of this
24 subsection;
- 25 (8) to contract with other state agencies to
26 accomplish the purposes of this subsection, and all state agencies
27 are authorized to execute contracts with the department to

1 accomplish the objectives and perform the duties of this subsection
2 in accordance with the Interagency Cooperation Act (Article
3 4413(32), Vernon's Texas Civil Statutes);

4 (9) to contract with or award grants to persons or
5 entities outside the government in order to achieve the objectives
6 and perform the duties listed in this subsection on the terms and
7 conditions determined by the governing board of the department.
8 Research contracts and grants awarded under this subsection are
9 subject to the terms of Chapter 454, Acts of the 65th Legislature,
10 Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil
11 Statutes). Purchases made under an awarded research contract or
12 grant are subject to the State Purchasing and General Services Act
13 (Article 601b, Vernon's Texas Civil Statutes). Purchases or
14 contracts made or awarded subsequent to the conclusion of a
15 successful research project, as determined by the department, shall
16 be subject to the State Purchasing and General Services Act
17 (Article 601b, Vernon's Texas Civil Statutes), Chapter 454, Acts of
18 the 65th Legislature, Regular Session, 1977 (Article 6252-11c,
19 Vernon's Texas Civil Statutes), and the provisions of this Act; and

20 (10) to receive state appropriations and grants from
21 any source to be allocated at the discretion of the department to
22 accomplish the objectives and to perform the duties of the
23 department under this subsection or this Act.

24 SECTION 5.08. Section 6, Information Resources Management
25 Act (Article 4413(32j), Revised Statutes), is amended to read as
26 follows:

27 Sec. 6. GOVERNING BOARD. (a) The department is governed by

1 a board composed of six [~~nine~~] members appointed by the governor
2 with the advice and consent of the senate. Two [~~Three~~] members
3 must be appointed from a list of persons submitted to the governor
4 by the speaker of the house of representatives[~~7-and-at-least-one~~
5 ~~of-the-persons-appointed-from-that-list-must-be--a--member--of--the~~
6 ~~house--of--representatives--who-serves-on-the-board-ex-officio-as-a~~
7 ~~voting-member~~]. Two [~~Three~~] members must be appointed from a list
8 of persons submitted to the governor by the lieutenant governor[~~7~~
9 ~~and-at-least-one-of-the-persons-appointed-from-that-list-must-be--a~~
10 ~~member-of-the-senate-who-serves-on-the-board-ex-officio-as-a-voting~~
11 ~~member.--One-of-the-nine-members-must-be-employed-by-an-institution~~
12 ~~of--higher--education-as-defined-by-Section-61:0037-Education-Code-~~
13 ~~in-addition--to--the--members--of--the--legislature--that--must--be~~
14 ~~appointed--from--the-lists-submitted-by-the-lieutenant-governor-and~~
15 ~~the-speaker-of-the--house--of--representatives7--the--governor--may~~
16 ~~appoint--other--members-of-the-legislature-to-serve-on-the-board-ex~~
17 ~~officio-as-voting-members~~].

18 (b) Members of the board serve for staggered six-year terms
19 with two [~~three~~] members' terms expiring February 1 of each
20 odd-numbered year.

21 (c) The governor shall designate the chairman of the board
22 from among the members. The chairman serves as chairman at the
23 will of the governor. The chairman may vote on all matters before
24 the board.

25 (d) An appointment to fill a vacancy of a board member shall
26 be made under the same procedure that applied to the original
27 appointment for that position. If the chair is vacant, the

1 executive director shall perform all nonvoting duties of the
2 chairman until the governor designates a new chairman. [~~if--it--is~~
3 ~~held--as--a--final--result-of-an-action-first-brought-in-a-court-of~~
4 ~~competent-jurisdiction-that-an-ex-officio-or-other--member--of--the~~
5 ~~board--may-not-serve-on-the-board-under-the-Texas-Constitution,~~ the
6 appropriate person shall promptly submit a list to the governor for
7 the appointment of a replacement who may serve.]

8 (e) A member of the board may not receive compensation for
9 services as a board member. A member is entitled to reimbursement
10 for actual and necessary expenses reasonably incurred in connection
11 with the performance of those services, subject to any applicable
12 limitation on reimbursement provided by the General Appropriations
13 Act. [~~An-ex-officio-member-is-entitled-to-reimbursement-for--those~~
14 ~~expenses-under-the-rules-of-the-member's-office.~~]

15 (f) A member of the board is not liable to civil action for
16 any act performed in good faith in the performance of duties as a
17 board member.

18 (g) [~~Five--or-more-members-of-the-board-constitute-a-quorum.~~
19 ~~A-quorum-must-be-present-to-conduct-business.--An-affirmative--vote~~
20 ~~of--a-majority-of-the-members-of-the-board-present-is-necessary-for~~
21 ~~an-action-of-the-board.~~

22 [~~h~~] The board shall meet at least once in each quarter of
23 the state fiscal year and may meet at other times at the call of
24 the chairman or as provided by department rule.

25 (h) [~~h~~] The board is subject to the open meetings law,
26 Chapter 271, Acts of the 60th Legislature, Regular Session, 1967
27 (Article 6252-17, Vernon's Texas Civil Statutes).

1 SECTION 5.09. Section 7(a), Information Resources Management
2 Act (Article 4413(32j), Revised Statutes), is amended to read as
3 follows:

4 (a) It is a ground for removal from the board if a member:

5 (1) does not have at the time of appointment the
6 [~~qualifications-or~~] status required for appointment to the board;

7 (2) [~~does-not-maintain-during-service-on-the-board-the~~
8 ~~qualifications-or-status-required-for-initial--appointment--to--the~~
9 ~~board,~~

10 [+3+] violates a prohibition established by Section 8
11 of this article;

12 (3) [+4+] cannot discharge the member's duties for a
13 substantial part of the term for which the member is appointed
14 because of illness or disability; or

15 (4) [+5+] is absent from more than half of the
16 regularly scheduled board meetings that the member is eligible to
17 attend during a state fiscal year unless the absence is excused by
18 majority vote of the board.

19 SECTION 5.10. Section 8(a), Information Resources Management
20 Act (Article 4413(32j), Revised Statutes), is amended to read as
21 follows:

22 (a) A member of the board or an employee of the department
23 may not:

24 (1) be a person required to register as a lobbyist
25 under Chapter 305, Government Code, because of the person's
26 activities for compensation on behalf of a business entity that
27 has, or on behalf of a trade association of business entities that

1 have, a substantial interest in the information resources
2 technologies industry;

3 (2) be an officer, employee, or paid consultant of a
4 business entity that has, or of a trade association of business
5 entities that have, a substantial interest in the information
6 resources technologies industry and that may contract with state
7 government;

8 (3) directly own, control, or have~~[7--directly--or~~
9 ~~indirectly]~~ more than a 10 percent interest in a business entity
10 that has a substantial interest in the information resources
11 technologies industry and that may contract with state government;

12 (4) have a direct financial interest ~~[receive-more~~
13 ~~than-25-percent-of-the-person's-income-from-a-business-entity--that~~
14 ~~has---a---substantial---interest---in---the---information---resources~~
15 ~~technologies-industry-and-that-may-contract-with-state-government,~~

16 ~~[+5)--be-interested]~~ in ~~[or-connected-with]~~ a contract
17 or bid for furnishing a state agency with information resources
18 technologies;

19 (5) ~~[+6+]~~ be paid ~~[employed]~~ by a state agency as a
20 consultant on information resources technologies; or

21 (6) ~~[+7+]~~ accept or solicit any gift or service that
22 would reasonably tend to influence the person in the discharge of
23 official duties or that the person knows or should know is being
24 offered with the intent to influence official conduct ~~[receive~~
25 ~~money--or--another--thing--of--value--from--an-individual,-firm,-or~~
26 ~~corporation--to--whom--a--contract--may--be--awarded,-directly--or~~
27 ~~indirectly,-by-rebate,-gift,-or-otherwise].~~

1 SECTION 5.11. Section 9, Information Resources Management
2 Act (Article 4413(32j), Revised Statutes), is amended by amending
3 Subsection (i) and adding Subsections (n) and (o) to read as
4 follows:

5 (i) The department shall establish an information resources
6 technology evaluation center for use by the department and other
7 state agencies. The department may accept the loan of information
8 resources technologies and may use loaned technologies for not more
9 than one year after the date of acceptance for the purpose of
10 evaluation and presentations.

11 (n) The department may issue requests for information and
12 requests for proposals relating to all existing or proposed
13 interagency projects, interagency use of a common application, or
14 other interagency use of information resources technologies. When
15 the department issues a request for information or request for
16 proposals to entities outside of government, the department must
17 comply with applicable procedures that govern such a request under
18 Article 3, State Purchasing and General Services Act (Article 601b,
19 Vernon's Texas Civil Statutes), or under Chapter 454, Acts of the
20 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's
21 Texas Civil Statutes), as appropriate.

22 (o) The department shall develop a disaster recovery plan
23 for state agency information resources and information resources
24 technologies for consideration by the division of emergency
25 management in the office of the governor. The division may include
26 all or part of the plan in the state emergency management plan.
27 The department may provide training and technical assistance to

1 state agency personnel related to disaster recovery procedures for
2 information resources and information resources technologies.

3 SECTION 5.12. The Information Resources Management Act
4 (Article 4413(32j), Revised Statutes) is amended by adding Section
5 9A to read as follows:

6 Sec. 9A. COMPUTER SECURITY. (a) The department may adopt
7 rules that govern state agency procedures related to the security
8 of information contained in or accessible by state agency
9 information resources technologies. Rules adopted under this
10 section must include provisions to prevent the loss, unauthorized
11 modification, and unauthorized disclosure of the information.

12 (b) The department may provide training and technical
13 assistance in information security to state agency personnel who
14 are responsible for working with information contained in or
15 accessible by state agency information resources technologies.

16 (c) A state agency may take appropriate measures related to
17 the security of its information that are in addition to the
18 measures taken by the agency as prescribed by department rule.

19 SECTION 5.13. The Information Resources Management Act
20 (Article 4413(32j), Revised Statutes) is amended by adding Section
21 9B to read as follows:

22 Sec. 9B. SHARED USE OF RESOURCES. (a) A state agency shall
23 respond to the department's requests for information and requests
24 for proposals relating to an existing or proposed interagency
25 project, interagency use of a common application, or other
26 interagency use of information resources technologies.

27 (b) The department may determine that a state agency should

1 make available to one or more other state agencies for specified
2 uses information resources technologies that are in the possession
3 of the agency. The department shall inform the state agencies
4 concerned of its determination.

5 (c) The department may determine that a state agency should
6 modify its information resources practices in a way that allows the
7 agency to accomplish a specified application, project, or other
8 function performed by the agency by using information resources
9 technologies in the possession of another agency. The department
10 shall inform the state agency concerned of its determination.

11 (d) If a state agency does not act in accordance with a
12 determination of the department under Subsection (b) or (c) of this
13 section, the department may inform the governor and the Legislative
14 Budget Board of that fact.

15 (e) The governor may direct a state agency to act in
16 accordance with all or part of a determination of the department
17 under Subsection (b) or (c) of this section. The governor may
18 require a state agency to provide more information relating to the
19 subject matter of the department's determination or the
20 department's request for information or request for proposals. The
21 state agency shall act in accordance with the governor's direction
22 on the matter.

23 SECTION 5.14. Section 12(a), Information Resources
24 Management Act (Article 4413(32j), Revised Statutes), is amended to
25 read as follows:

26 (a) The executive director shall prepare a state strategic
27 plan for information resources management for the board's review

1 and approval. The plan must:

2 (1) provide a strategic direction for information
3 resources management in state government for the five fiscal years
4 following adoption of the plan, and provide guidance to state
5 agencies in the development of the agency strategic plans;

6 (2) establish goals and objectives relating to
7 information resources management;

8 (3) provide long-range policy guidelines for
9 information resources in state government, including the
10 implementation of national and international standards for
11 information resources technologies;

12 (4) identify major issues relating to improved
13 information resources management, including the identification of
14 needed procurement policy initiatives to encourage competition
15 between providers of information resources technologies and a
16 consideration of the comparative costs and advantages to the state
17 when state agency needs are met within the agency, on an
18 interagency basis, and through a contract with the private sector;
19 [and]

20 (5) identify functions that may be accomplished more
21 cost-effectively through contracts with the private sector; and

22 (6) identify priorities for the implementation of
23 information resources technologies based on the relative economic
24 and social impact on the state.

25 SECTION 5.15. Sections 14(a) and (c), Information Resources
26 Management Act (Article 4413(32j), Revised Statutes), are amended
27 to read as follows:

1 (a) Each state agency shall prepare and submit to its
2 governing body for approval an agency strategic plan for
3 information resources management. After the governing body has
4 approved the plan, the [The] plan shall be signed by the governing
5 officer or chairman of the governing body of the agency if the
6 agency is governed by one or more fully paid full-time state
7 officials, and otherwise by the executive director of the agency.
8 The agency strategic plan shall be prepared in a format prescribed
9 by the department and shall be submitted to the department for
10 review and approval not later than January 1 of each even-numbered
11 [odd-numbered] year.

12 (c) Each agency strategic plan must be consistent with the
13 state strategic plan and include:

14 (1) a statement of the agency's goals, objectives, and
15 current programs as found in the agency's legislative
16 appropriations request;

17 (2) a description of the agency's major data bases and
18 their applications;

19 (3) a description of the agency's current information
20 resources management organizations, policies, and practices;

21 (4) a description of interagency computer networks in
22 which the agency participates;

23 (5) an assessment of the extent to which the agency
24 could achieve its objectives through a contract with another agency
25 or with the private sector;

26 (6) [+5+] a statement of the strategic objectives of
27 the agency relating to information resources management for the

1 next five fiscal years, beginning with the fiscal year during which
2 the plan is submitted, with a description of how those objectives
3 help achieve the agency's programs and goals, and a description of
4 how those objectives support and further the goals and policies of
5 the state strategic plan; and

6 (7) [~~6~~] other planning components that the
7 department may prescribe.

8 SECTION 5.16. Section 15, Information Resources Management
9 Act (Article 4413(32j), Revised Statutes), is amended to read as
10 follows:

11 Sec. 15. INITIAL OPERATING PLANS. (a) Once each biennium,
12 each state agency's information resources manager shall prepare an
13 initial operating plan. The plan must include the information
14 required under Subsection (b) of this section with the specificity
15 required by the department [~~An agency is not required to identify~~
16 ~~specific acquisitions or the method of acquisition in the plan~~].
17 The plan must be [~~approved by the governing body of the agency and~~]
18 submitted to the department for approval not later than the date
19 that the agency is required to submit its first legislative
20 appropriations request. An amended plan consistent with the
21 changes in the agency's legislative appropriations request shall be
22 submitted for approval to the department on the date that the
23 agency submits an amended legislative appropriations request.

24 (b) A state agency's initial operating plan must, for each
25 request under each Legislative Budget Board assumption:

26 (1) state how the agency's requested appropriations
27 for the management, operation, and procurement of information

1 resources would be spent;

2 (2) contain a summary of the agency's needs for
3 information resources technologies and the estimated cost of
4 meeting those needs during the next biennium within the agency, on
5 an interagency basis, and through a contract with the private
6 sector;

7 (3) list the existing and proposed projects, including
8 internal development projects, for the agency during the next
9 biennium, including:

10 (A) the anticipated measurable benefits of those
11 projects and the measurement standards used to determine those
12 benefits;

13 (B) the major resources required to conduct the
14 projects;

15 (C) the agency's estimated total cost of each
16 project by legislative program as found in the agency's legislative
17 appropriations request;

18 (D) the cost and implementation schedule for
19 each stage of each project;

20 (E) the number, type, approximate cost,
21 schedule, and, if known, the planned method of acquisition for all
22 procurements associated with each project that are subject to
23 review under department rules; and

24 (F) the estimated internal development costs for
25 each project, including an allocation of costs for the use of fixed
26 assets and an allocation for administrative costs;

27 (4) provide an estimate, given the estimated work

1 load, of the percentage of existing and proposed information
2 resources technologies that will be required after all existing and
3 proposed projects are implemented; and

4 (5) provide any other information the department
5 considers necessary.

6 SECTION 5.17. Section 16, Information Resources Management
7 Act (Article 4413(32j), Revised Statutes), is amended by amending
8 Subsections (b) and (d) and adding Subsections (e) and (f) to read
9 as follows:

10 (b) At a minimum, the plan must include, in addition to the
11 information required in the initial operating plan, the following:

12 (1) the amount of money related to information
13 resources actually appropriated to the agency for the biennium
14 beginning September 1; ~~and~~

15 (2) an identification of changes, if any, in the
16 agency's priorities for projects and associated procurements as set
17 forth in the initial operating plan;

18 (3) an update of the estimated costs required under
19 Section 15(b)(2) of this article; and

20 (4) any additional information required for projects
21 under Section 18 of this article.

22 (d) A state agency shall amend its final operating plan:

23 (1) when necessary to reflect changes in the plan
24 during a biennium;

25 (2) ~~[---The plan shall also be amended]~~ if necessary
26 to show the impact of a consulting services contract or report that
27 may affect software development, hardware configuration, or changes

1 in the agency's management of information resources;

2 (3) at the direction of the department, when a
3 significant phase of the systems development life cycle of a
4 project is completed; and

5 (4) at the direction of the department, before a
6 significant phase of the systems development life cycle of a
7 project is commenced.

8 (e) An amendment required under Subsection (d)(3) or (4) of
9 this section must include the cost of accomplishing the application
10 or proposed project under the method of implementation proposed by
11 the agency.

12 (f) The substance of any amendment submitted to the plan
13 must also be included in an appropriate approved agency strategic
14 plan or approved agency strategic plan amendment.

15 SECTION 5.18. Sections 17(b), (c), (d), (e), (g), and (i),
16 Information Resources Management Act (Article 4413(32j), Revised
17 Statutes), are amended to read as follows:

18 (b) The department shall notify a state agency in writing of
19 the department's approval or disapproval of an initial operating
20 plan. The department may approve or conditionally approve all or
21 part of a plan or disapprove all or part of a plan. The
22 notification shall be sent not later than 120 days after the date
23 the department receives the plan.

24 (c) The department shall notify a state agency in writing of
25 the department's approval or disapproval of a final operating plan.
26 The department may approve or conditionally approve all or part of
27 a plan or disapprove all or part of a plan. The notification shall

1 be sent not later than 30 days after the date the department
2 receives the plan. If the department's determination is due after
3 September 1 of an odd-numbered year, a state agency may operate as
4 if the plan had been approved until the department actually makes
5 its determination.

6 (d) If the department disapproves all or part of a state
7 agency's initial operating plan or final operating plan, the
8 department shall provide to the agency in writing the reasons for
9 the disapproval. If the agency cannot resolve the problems that
10 caused disapproval within 30 days after the date the notice of
11 disapproval is received, the agency shall notify the department in
12 writing of the reasons why the problems cannot be resolved. The
13 notification shall be sent to the department not later than 30 days
14 after the date that the agency receives notice of the department's
15 disapproval.

16 (e) Before a state agency may amend its final operating
17 plan, the agency must submit the proposed amendment to the
18 department for approval. All amendments affecting operations
19 during a fiscal year must be submitted not later than June 1 of
20 that fiscal year. The department may approve or conditionally
21 approve all or part of a proposed plan amendment or disapprove all
22 or part of a proposed plan amendment. The department shall notify
23 the agency of the department's approval or disapproval not later
24 than the 30th day after the date the proposed amendment is
25 received. If the department disapproves all or part of a proposed
26 amendment, the department shall state the reasons for the
27 disapproval in writing to the agency's information resources

1 manager. The department shall adopt rules for the procedures a
2 state agency must follow when submitting a revision of proposed
3 amendments to the department after the department has disapproved
4 the amendments.

5 (g) A state agency that disagrees with the department's
6 disapproval of all or part of an initial operating plan, final
7 operating plan, or an amendment to either of those plans may submit
8 a written request to the department for special review. On receipt
9 of a request, the executive director shall inform the board. The
10 board shall consider the merits of the agency's position and make
11 its decision on the matter at the next regularly scheduled board
12 meeting. The state agency may appear and present its position at
13 that meeting. The decision of the board is final. The board shall
14 adopt rules for the fair and efficient administration of this
15 subsection.

16 (i) As a consequence of evaluating an initial operating
17 plan, ~~[or]~~ a final operating plan, or an amendment to either of
18 those plans, the department may require a state agency to submit or
19 obtain comprehensive ~~[certain]~~ information and documentation
20 required by the department in the format prescribed by the
21 department ~~[as-part--of--its--procurement--process.---This--may--be~~
22 ~~required-when:~~

23 ~~[(1)--an----agency---is---planning---a---noncompetitive~~
24 ~~procurement;~~

25 ~~[(2)--an-agency-is-planning-a-system-conversion;-or~~

26 ~~[(3)--the-department-determines--that--the--information~~
27 ~~would-be-necessary-or-appropriate].~~

1 SECTION 5.19. The Information Resources Management Act
2 (Article 4413(32j), Revised Statutes) is amended by adding Section
3 17A to read as follows:

4 Sec. 17A. COMPARATIVE COST REVIEW FOR INTERNALLY DEVELOPED
5 APPLICATION OR PROJECT. (a) The department may conduct a
6 comparative cost review for an application or project that a state
7 agency has developed or implemented or proposes to develop or
8 implement internally. In conducting the review, the department
9 may:

10 (1) base its estimate of the cost to the state of the
11 agency's future internal development or implementation of the
12 application or project on information it receives under Sections
13 14-17 of this article;

14 (2) seek and obtain information from other state
15 agencies and from nongovernmental entities on the probable cost to
16 the state of the future development or implementation of the
17 application or project through a contract with a state agency or
18 with a nongovernmental entity; and

19 (3) require further information from the agency on the
20 cost to the state of future internal development or implementation
21 by the agency of the application or project.

22 (b) If the department determines that the probable total
23 future cost to the state of accomplishing the application or
24 project through a contract with another state agency or with a
25 nongovernmental entity would be less than 90 percent of the total
26 probable future cost to the state of continued internal development
27 or implementation of the application or project by the agency, the

1 department may require the agency to issue a request for bids or a
2 request for proposals, as provided by law, for the accomplishment
3 of the application or project through a contract with another state
4 agency or a nongovernmental entity.

5 (c) If a bid or proposal is received under Subsection (b) of
6 this section that would allow the agency to accomplish the
7 application or project at an acceptable level of quality and for an
8 acceptable period for a total cost to the state of less than 90
9 percent of the total cost to the state of continued internal
10 development or implementation, as that cost is determined by the
11 department, a contract for the accomplishment of the application or
12 project shall be awarded to the bidder with the lowest and best
13 bid, or the offeror whose proposal is most advantageous to the
14 state as determined from competitive sealed proposals.

15 (d) Not later than January 31 of each year, the department
16 shall provide an annual report of the comparative cost reviews it
17 performed during the previous calendar year, including its findings
18 and recommendations, to the Legislative Budget Board.

19 SECTION 5.20. Section 18, Information Resources Management
20 Act (Article 4413(32j), Revised Statutes), is amended to read as
21 follows:

22 Sec. 18. AUTHORIZATION FOR PROJECT DEVELOPMENT AND
23 IMPLEMENTATION [ACQUISITION-SPECIFICATIONS]. (a) A state agency
24 may not spend appropriated money to take an action related to
25 project development or project implementation [acquire--information
26 resources--technologies] unless the action is consistent with an
27 appropriate final operating plan or plan amendment that has already

1 received final approval from the department or the agency first
2 submits [the--specifications--for-the-proposed-acquisition] to the
3 department a project update, in the form of a final operating plan
4 amendment, that includes the proposed action, and the department
5 approves the project update plan amendment. The agency must submit
6 specifications and documentation to the department relating to a
7 proposed project that are sufficiently detailed and complete to
8 allow the department to perform a meaningful and thorough review.
9 The department shall adopt rules relating to the form and content
10 of the specifications and documentation that must be submitted to
11 the department. [If-the-agency-determines-that-the-acquisition-may
12 be--obtained--from--only--one--source,--the--agency-shall-state-the
13 reasons-for-that-determination:] The department shall determine
14 whether:

15 (1) the [specifications--of--the] proposed project
16 complies with statewide standards and policies contained in the
17 state strategic plan;

18 (2) the form and content of the specifications and
19 documentation submitted to the department substantially comply with
20 department rules;

21 (3) the proposed project is cost effective and
22 technically valid;

23 (4) there has been performed an adequate analysis of
24 alternatives to the proposed project or to the method of developing
25 or implementing the proposed project, including a comparative cost
26 analysis of the probable cost to the state of development or
27 implementation of the project through a contract with a state

1 agency or with a nongovernmental entity; and

2 (5) the proposed project is [acquisition--are]
3 consistent with the appropriate final operating plan and plan
4 amendments submitted by the agency and approved by the department.

5 (b) If the department finds that a proposed action related
6 to a project as [the--acquisition--of--information--resources
7 technologies] described by the project update plan amendment and
8 the supporting specifications and documentation does not meet the
9 criteria prescribed by Subsection (a) of this section [would--be
10 inconsistent--with--the--appropriate-plan-and-plan-amendments], the
11 department shall notify the state agency and, for actions taken
12 [acquisitions--made] through the State Purchasing and General
13 Services Commission, the commission in writing of the finding and
14 of the specific reasons for the finding. A state agency [The
15 acquisition] may not then spend appropriated money to take the
16 action [be-made] unless the department overturns its finding.

17 (c) [~~if the department finds that the--proposed--acquisition~~
18 ~~is--consistent-with-the-appropriate-plan-and-plan-amendments, or if~~
19 ~~the department does not issue the notification of--its--finding--of~~
20 ~~inconsistency--on--or--before--the-30th-day-after-the-date-that-the~~
21 ~~department---receives---the---specifications---for---the---proposed~~
22 ~~acquisition, the acquisition may be made.~~

23 [(d)] The department by rule may establish procedures to
24 exempt certain projects [procurements] from the requirements of
25 this section and to expedite the requirements of this section for
26 certain projects [procurements]. The exempted projects
27 [procurements] shall include technologies that are acquired through

1 contracts and grants by an institution of higher education as
2 defined by Section 61.003, Education Code, for [~~instruction-or~~]
3 research purposes.

4 (d) [~~te~~] A state agency may take an action described in
5 this article without first complying with the procedures prescribed
6 by this article if the agency finds that a situation caused by
7 fire, natural disaster, or other actual emergency requires the
8 action to be taken. A report explaining the emergency action must
9 be filed with the department not later than the 30th day after the
10 date the action is taken.

11 (e) If a state agency determines that a project action will
12 include making an acquisition that may be obtained from only one
13 source, the agency shall state the reasons for that determination
14 to the department.

15 SECTION 5.21. The Information Resources Management Act
16 (Article 4413(32j), Revised Statutes) is amended by adding Section
17 18A to read as follows:

18 Sec. 18A. PROCEDURE FOR CERTAIN CONTRACTS. (a) A state
19 agency may not enter into an interagency contract for the receipt
20 of information resources technologies, including a contract for
21 services and a contract under Section 21 of this article, unless
22 the agency complies with this section.

23 (b) A state agency that proposes to receive information
24 resources technologies under a contract with another state agency
25 must first give public notice of a request for proposals or a
26 request for bids.

27 (c) A state agency may not enter into an interagency

1 contract to receive information resources technologies if the
2 agency receives a bid or proposal under Subsection (b) of this
3 section under which the agency can receive the same or
4 substantially the same technologies from a private vendor for less
5 than 90 percent of the cost that would be incurred by the agency
6 under the interagency contract. If a bid or proposal is received
7 under Subsection (b) of this section that would allow the agency to
8 accomplish the application or project at an acceptable level of
9 quality and for an acceptable period for a total cost to the state
10 of less than 90 percent of the total cost to the state of the best
11 proposed interagency contract, as that cost is determined by the
12 department, a contract for the accomplishment of the application or
13 project shall be awarded to the bidder with the lowest and best
14 bid, or the offeror whose proposal is most advantageous to the
15 state as determined from competitive sealed proposals.

16 SECTION 5.22. Section 19, Information Resources Management
17 Act (Article 4413(32j), Revised Statutes), is amended to read as
18 follows:

19 Sec. 19. INFORMATION RESOURCES MANAGERS. (a) The person
20 required to sign an agency's strategic plan, or a senior staff
21 member designated by that person [~~person's designee~~], shall serve
22 as the agency's information resources manager. A member of the
23 board of the department may not also serve as the information
24 resources manager of a state agency.

25 (b) If the department agrees, [~~performs-substantially-all~~
26 ~~information-processing--for~~] a state [~~agency7--the~~] agency may
27 designate the department as the agency's information resources

1 manager. The department may by rule define the circumstances in
2 which it may serve as an agency's information resources manager.

3 (c) Each state agency shall cooperate as necessary with its
4 information resources manager to enable that person to perform the
5 duties required of the information resources manager by law.

6 (d) The department shall adopt rules [~~provide guidelines to~~
7 ~~state agencies~~] regarding the initial and continuing education and
8 training requirements [~~needed~~] for information resources managers
9 [~~not later than September 17, 1990, to be effective on September 17~~
10 ~~1992~~]. The department may create a certification program for
11 information resources managers and require that information
12 resources managers be certified as prescribed by the department.

13 Any person who is appointed the information resources manager of a
14 state agency before September 1, 1992, is exempt from the
15 requirements of the department regarding initial education needed
16 for that position. The department may provide educational
17 materials and seminars for state agencies and information resources
18 managers.

19 (e) The information resources manager is responsible for the
20 preparation of the [~~operating~~] plans under Sections 14 [~~15~~]-17 of
21 this article, and the annual performance report under Section 20 of
22 this article.

23 SECTION 5.23. Title 20, Revised Statutes, is amended by
24 adding Article 601i to read as follows:

25 Art. 601i. INFORMATION TECHNOLOGIES CONSULTING SERVICES

26 Sec. 1. DEFINITIONS. In this article:

27 (1) "Consulting services" means the human service of

1 studying or advising a state agency.

2 (2) "Department" means the Department of Information
3 Resources.

4 (3) "Information resources technologies" has the
5 meaning assigned by Section 3, Information Resources Management Act
6 (Article 4413(32j), Revised Statutes).

7 (4) "State agency" has the meaning assigned by Section
8 1.02(2), State Purchasing and General Services Act (Article 601b,
9 Vernon's Texas Civil Statutes).

10 Sec. 2. APPLICABILITY. (a) This article applies to the
11 receipt of consulting services relating to information resources
12 technologies by a state agency under a contract that does not
13 involve the traditional relationship of employer and employee.
14 This article, including rules adopted by the department or governor
15 under this article and the requirement of a finding of need by the
16 governor, also applies to an amendment to or an extension of such a
17 contract.

18 (b) Chapter 454, Acts of the 65th Legislature, Regular
19 Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes),
20 and the Professional Services Procurement Act (Article 664-4,
21 Vernon's Texas Civil Statutes) do not apply to a contract to which
22 this article applies.

23 Sec. 3. CERTAIN SERVICES EXCEPTED FROM ARTICLE. The
24 department by rule may define circumstances in which state agency
25 procurement of certain services relating to information resources
26 technologies that will cost less than a minimum amount established
27 by the department are excepted from the requirements of this

1 article, if the department determines that it would be more
2 cost-effective for the state.

3 Sec. 4. CONTRACTS VOID. (a) A contract made by a state
4 agency for the receipt of a service that is subject to this article
5 is void if the contract or the procedures under which the contract
6 was awarded violate this article or a rule adopted under this
7 article.

8 (b) If a contract is void under this section, the
9 comptroller of public accounts or a state agency may not make any
10 payments under the contract.

11 Sec. 5. FINDING OF NEED. (a) A state agency may not
12 contract to receive consulting services relating to information
13 resources technologies unless:

14 (1) the governor issues a written finding of need for
15 the agency to obtain the service under a contract to which this
16 article applies; or

17 (2) the contract is excepted from this article under
18 Section 3 of this article.

19 (b) The governor may adopt rules for the procedures a state
20 agency must follow when requesting a finding of need and
21 demonstrating the need to the governor.

22 Sec. 6. REQUIRED PROCEDURES. (a) The department shall
23 adopt rules that govern the procedures for making a contract for
24 services under this article. The department's rules under this
25 section:

26 (1) must require adequate advance public notice of
27 requests for bids and proposals;

1 (2) may determine the form of notice required as
2 appropriate in different circumstances;

3 (3) may determine the extent to which bids, proposals,
4 or opportunities for negotiation are most advantageous to the state
5 and required as appropriate in different circumstances and
6 determine the procedures for bids, proposals, and negotiations
7 leading to the award of a contract;

8 (4) may determine, based on what is most advantageous
9 to the state, the extent to which demonstrated competence and
10 qualifications should be taken into account when a state agency
11 evaluates a bid or proposal in different circumstances; and

12 (5) may be modeled in part on other state laws that
13 govern bids and proposals in public contracting to the extent
14 appropriate.

15 (b) The governor may exempt a state agency from all or part
16 of the department's rules under this section if the governor
17 determines that an unforeseen emergency has arisen that makes
18 compliance with all or part of the rules infeasible. For purposes
19 of this subsection, an unforeseen emergency is an emergency that
20 the agency could not reasonably be expected to foresee. The
21 governor shall adopt rules for the administration of this
22 subsection.

23 Sec. 7. CONFLICTS OF INTEREST. An officer or employee of a
24 state agency who has a financial interest in a firm or corporation
25 that provides contracted services under this article and that
26 submits an offer to provide services under this article to the
27 agency or who is related within the second degree by consanguinity

1 or affinity to a person having that financial interest shall report
2 the financial interest to the executive head of the state agency
3 not later than the 10th day after the date on which the contractor
4 submits the contracted services offer.

5 Sec. 8. PROCUREMENT THROUGH GENERAL SERVICES COMMISSION.

6 (a) At the request of a state agency, the General Services
7 Commission shall procure services that are covered by this article
8 for the agency.

9 (b) Either house of the legislature and any committee or
10 agency of the legislature may use the services of the General
11 Services Commission to procure consulting services.

12 (c) The commission may require reimbursement for the cost it
13 incurs when it performs a service under this section.

14 SECTION 5.24. Chapter 454, Acts of the 65th Legislature,
15 Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil
16 Statutes), as amended by House Bill No. 1345, Acts of the 72nd
17 Legislature, Regular Session, 1991, is reenacted and amended to
18 read as follows:

19 Sec. 1. In this Act:

20 (1) "Consulting service" means the human service of
21 studying or advising a [an] state agency under a [an--independent]
22 contract that does not involve the traditional relationship of
23 employer and employee. [The-term-includes-routine-work-provided-to
24 an-agency-under-an-independent-contract-that-is--necessary--to--the
25 functioning--of--the--agency's--programs.---The--term-includes-only
26 services-for-which-payment-is-made-from-funds-

27 [A)--that-are-appropriated-by-the-legislature,

1 [~~(B)~~--that-are-generated-by--statutory--functions
2 of-the-agency~~7~~-or

3 [~~(C)~~--that--are--received--by--the-state-from-the
4 federal-government-and--that--are--awarded--to--the--state--without
5 requiring--the-state-to-request-the-funds-through-a-grant-program.]

6 (2) "Private consultant" means an individual or entity
7 that performs or proposes to perform consulting services.

8 (3) "State agency" means a [~~any~~] state department,
9 commission, board, office, institution, facility, or other
10 agency[~~7~~] the jurisdiction of which is not limited to a
11 geographical portion of the state. The term includes [~~including~~] a
12 university system and [~~or~~] an institution of higher education as
13 defined in Section 61.003, [~~Texas~~] Education Code[~~7--as--amended7~~].
14 The term does not include [~~other-than~~] a public junior college.

15 Sec. 2. (a) This Act does not apply to and is not intended
16 to discourage the use of consulting services provided by:

17 (1) professions listed under the Professional Services
18 Procurement Act (Art. 664-4, Vernon's Texas Civil Statutes),
19 [~~employment-of--registered--professional--engineers--or--registered~~
20 ~~architects--for--architectural--or--engineering--studies-or-for-the~~
21 ~~design-or-construction-of-state-facilities7~~]

22 (2) private legal counsel,

23 (3) investment counselors,

24 (4) actuaries, [or]

25 (5) [physicians~~7~~-dentists~~7~~-or] other medical or dental
26 services providers, or

27 (6) other consultants whose services are determined by

1 the governing board of a retirement system trust fund to be
2 necessary for the performance of its fiduciary duties under the
3 state constitution, provided however, the governing board shall
4 comply with Section 6 of this Act. Contracts made under this
5 subsection shall not be void for failure to comply with the
6 requirements of the article [and-it-is-not-intended-to-discourage
7 their-use].

8 (b) This Act applies to consulting services that a state
9 agency purchases with funds:

10 (1) appropriated by the legislature;

11 (2) generated by the statutory duties of a state
12 agency; or

13 (3) received from the federal government to the extent
14 that federal laws or regulations do not conflict with this Act.

15 Sec. 3. (a) A state agency may use a private consultant
16 only if:

17 (1) there is a substantial need for the consulting
18 services; and

19 (2) the state agency cannot adequately perform the
20 consulting services with its own personnel or through a contract
21 with another state agency.

22 (b) In selecting a private consultant, a state agency shall:

23 (1) base its choice on demonstrated competence,
24 knowledge, and qualifications, and on the reasonableness of the
25 proposed fee for the services; and

26 (2) when other considerations are equal, give a
27 preference to a private consultant whose principal place of

1 business is within the state or who will manage the consulting
2 engagement wholly from one of its offices within the state.

3 Sec. 4. (a) Before ~~[At-least-30--days--before]~~ contracting
4 with ~~[to-use]~~ a private consultant whose total ~~[anticipated]~~ fee is
5 reasonably foreseeable to exceed ~~[exceeds]~~ \$10,000, a state agency
6 shall:

7 (1) notify the Legislative Budget Board and the
8 governor's ~~[Governor's]~~ Budget and Planning Office of the agency's
9 intent to contract with ~~[use]~~ a private consultant; ~~[and]~~

10 (2) ~~[shall]~~ supply the Legislative Budget Board and
11 the governor's ~~[Governor's]~~ Budget and Planning Office with
12 information demonstrating that the agency has complied or will
13 comply with ~~[the-policies-of]~~ Section 3; and ~~[of-this-Act.]~~

14 (3) obtain a finding of fact from the governor's
15 Budget and Planning Office that the consulting services are
16 necessary.

17 (b) A consulting services contract that a state agency
18 executes without first obtaining the required finding of fact from
19 the governor's Budget and Planning Office is voidable.

20 Sec. 5. ~~[{a)--After--a--state--agency--contracts--to--use--a~~
21 ~~private--consultant,--the--state-agency-shall,--upon-request,--supply~~
22 ~~the-Legislative-Budget-Board-and-the-Governor's-Budget-and-Planning~~
23 ~~Office-with-copies-of-all-documents,--films,--recordings,--or--reports~~
24 ~~of--intangible-results-of-the-consultant-service-that-are-developed~~
25 ~~by-the-private-consultant.~~

26 ~~[{b)--Copies-of-all-documents,--films,--recordings,--or--reports~~
27 ~~of--intangible--results-shall-be-filed-with-the-Texas-State-Library~~

1 and-shall-be-retained-by-the-library--at--least--five--years--after
2 receipt;

3 [(c)--As--part--of--the--biennial--budgetary--hearing-process
4 conducted-by-the-Legislative-Budget-Board-and-the-Governor's-Budget
5 and-Planning-Office,--a-state-agency-shall--supply--the--Legislative
6 Budget--Board--and--the--Governor's-Budget-and-Planning-Office-with
7 reports-on-what-action-was-taken-in-response-to-the-recommendations
8 of-any-private-consultant-employed-by-the-state-agency;

9 [Sec:-6:] (a) No later than the thirtieth day before
10 entering into a consulting services contract with a reasonably
11 foreseeable value of more than \$10,000, [If--it--is--reasonably
12 foreseeable-that-a-proposed-use-of-a-private-consultant-may-involve
13 a-contract-with-a-value-in-excess-of-\$10,000,] a state agency [or-a
14 regional--council--of-government-created-under-Chapter-570, Acts-of
15 the-59th-Legislature, Regular-Session, 1965,--as--amended--(Article
16 101m,--Vernon's--Texas-Civil-Statutes),--that-proposes-the-use-of-a
17 private--consultant] shall file[7--at--least---40---days---before
18 contracting--with--a-private-consultant,--the-following-information]
19 with the secretary of state [Secretary-of-State] for publication in
20 the Texas Register:

21 (1) an [a---notice---of] invitation for private
22 consultants to provide offers of consulting services;

23 (2) the individual [person] who should be contacted by
24 a private consultant who intends [wants] to make an offer;

25 (3) the closing date for the receipt of offers [of
26 consulting-services]; and

27 (4) the procedure by which the state agency [or

1 ~~council-of-government~~] will award the ~~[contract--for]~~ consulting
2 services contract.

3 (b) If the consulting service desired by a state agency
4 relates to a service previously performed by a private consultant,
5 the agency shall disclose that fact in the invitation for offers
6 filed with the secretary of state under Subsection (a) of this
7 section. If the state agency intends to award the contract for the
8 consulting services to the private consultant that previously
9 performed the services unless a better offer is submitted, the
10 agency shall disclose this intention in the invitation for offers.

11 Sec. 6. (a) No later than the tenth day after executing a
12 consulting services contract, a ~~[(b)--A]~~ state agency ~~[or-regional~~
13 ~~council-of-government]~~ that is subject to the requirements of
14 Section 5 ~~[complies-with-Subsection-(a)-of-this-section]~~ shall file
15 ~~[within--10--days-after-contracting-with-the-private-consultant-the~~
16 ~~following-information]~~ with the secretary of state ~~[Secretary--of~~
17 ~~State-for-publication-in-the-Texas-Register]:~~

18 (1) a description of the activities ~~[study]~~ that the
19 private consultant will ~~[is-to]~~ conduct;

20 (2) the name and business address of the private
21 consultant;

22 (3) the total value and the beginning and ending dates
23 of the contract; and

24 (4) the due dates of documents, films, recordings, or
25 reports ~~[of-intangible-results]~~ that the private consultant is
26 required to present to the agency ~~[or-council-of-government]~~.

27 (b) Upon receipt of the information described in Subsection

1 (a) of this section, the secretary of state shall publish the
2 information in the Texas Register.

3 Sec. 7. (a) When a state agency intends to renew a
4 consulting services contract, the original value of which was
5 reasonably foreseeable to be greater than \$10,000, the agency
6 shall:

7 (1) file with the secretary of state for publication
8 in the Texas Register the information required by Section 6 no
9 later than the tenth day after the renewal is executed if the
10 renewal will have a reasonably foreseeable value of \$10,000 or
11 less; or

12 (2) comply with the requirements of Sections 4 and 5
13 if the value of the renewal will have a reasonably foreseeable
14 value of more than \$10,000.

15 (b) When a state agency intends to renew a consulting
16 services contract, the original value of which was reasonably
17 foreseeable to be \$10,000 or less, the agency shall comply with the
18 requirements of Sections 4 and 5 if the total value of the original
19 contract and the renewal is reasonably foreseeable to exceed
20 \$10,000.

21 (c) When a state agency intends to amend or extend a
22 consulting services contract, the original value of which was
23 reasonably foreseeable to be greater than \$10,000, the agency
24 shall:

25 (1) file the information required by Section 6, no
26 later than the tenth day after the amendment or extension is
27 executed, with the secretary of state for publication in the Texas

1 Register if the value of the amendment or extension is reasonably
2 foreseeable to be \$10,000 or less; or

3 (2) comply with Sections 4 and 5 if the value of the
4 amendment or extension is reasonably foreseeable to exceed \$10,000.

5 (d) When a state agency intends to amend or extend a
6 consulting services contract, the original value of which was
7 reasonably foreseeable as \$10,000 or less, the agency shall comply
8 with the requirements of Sections 4 and 5 if the total value of the
9 original contract and the amendment or extension is reasonably
10 foreseeable to exceed \$10,000.

11 [~~(c) The Texas State Library shall compile a list of~~
12 ~~documents, films, recordings, and reports of intangible results~~
13 ~~submitted to it under Section 5(b) of this Act and shall file the~~
14 ~~list in each quarter of the calendar year with the Secretary of~~
15 ~~State for publication in the Texas Register.~~

16 [~~(d) If the consulting service desired by a state agency is~~
17 ~~a continuation of a service previously performed by a private~~
18 ~~consultant, the agency shall state this in the invitation for~~
19 ~~offers filed with the Secretary of State under Subsection (a) of~~
20 ~~this section. If the state agency intends to award the contract~~
21 ~~for the consulting services to the private consultant that~~
22 ~~previously performed the services unless a better offer is~~
23 ~~submitted, it shall state this in the invitation for offers.]~~

24 Sec. 8 [6A]. (a) An officer or employee of a state agency
25 who has a financial interest in an association, partnership, [a]
26 firm or corporation [that is a private consultant and] that submits
27 an offer to provide consulting services to the agency or who is

1 related within the second degree by consanguinity or affinity, as
2 determined under Article 5996h, Revised Statutes, to an individual
3 ~~[a-person]~~ having the financial interest shall report the financial
4 interest to the executive head of the state agency not later than
5 the tenth ~~[tenth]~~ day after the day on which the association,
6 partnership, firm, or corporation ~~[private-consultant]~~ submits the
7 ~~[consulting-services]~~ offer.

8 (b) This section applies to all consulting services
9 contracts, including renewals, amendments, and extensions of those
10 contracts.

11 Sec. 9 [6B]. (a) An individual ~~[A-person]~~ who offers to
12 perform a consulting service for a state agency and who has been
13 employed by that ~~[the]~~ agency or by another ~~[state]~~ agency at any
14 time during the two years preceding the making of the offer shall
15 disclose in the offer:

16 (1) the nature of the previous employment with the
17 agency or the other ~~[state]~~ agency;~~[7]~~

18 (2) the date of termination of the employment;~~[7]~~ and

19 (3) the annual rate of compensation for the employment
20 at the time of its termination.

21 (b) A state agency that accepts an ~~[the]~~ offer from an
22 individual described in Subsection (a) of this section shall
23 include in the information filed under Section 6 ~~[Subsection-(b)-of~~
24 ~~Section-6-of-this-Act]~~ a statement about the individual's previous
25 employment and the nature of that ~~[the]~~ employment.

26 Sec. 10. (a) If an unforeseen emergency causes a state
27 agency to need the services of a private consultant in a time frame

1 that makes compliance with all or part of this Act infeasible, then
2 this section applies. This section applies regardless of whether
3 the needed services necessitate a new contract or the renewal,
4 amendment, or extension of an existing contract.

5 (b) The state agency shall request from the governor a
6 limited waiver from the requirements of this Act. The governor may
7 grant the limited waiver only after the agency has provided
8 information concerning the nature of the emergency, the reason
9 that the emergency was unforeseen, the identity of the private
10 consultant with whom the agency wishes to contract, the amount of
11 the proposed contract, and the other information the governor deems
12 necessary.

13 (c) For the purpose of this section, the term "unforeseen
14 emergency" means a situation that suddenly and unexpectedly causes
15 a state agency to need the services of a private consultant. The
16 term includes, but is not limited to, the issuance of a court
17 order, an actual or imminent natural disaster, and new state or
18 federal legislation. An emergency is unforeseen only to the extent
19 that a state agency was not negligent in foreseeing the occurrence
20 of the emergency.

21 (d) As soon as possible after the governor grants a limited
22 waiver to a state agency, the agency shall fulfill the requirements
23 of this Act to the extent that those requirements are not made
24 superfluous or ineffective by the governor's limited waiver. The
25 notice published in the Texas Register shall contain a detailed
26 description of the emergency that necessitated the governor's
27 temporary waiver.

1 (e) The governor shall adopt rules for the efficient
2 administration of this section.

3 Sec. 11 [6E]. (a) If a state agency contracts for
4 consulting services or renews, amends, or extends a consulting
5 services contract [~~to-use-a-private-consultant~~] without complying
6 with the requirements of Sections 5 through 7, [~~Section-6--of--this~~
7 ~~Act--or-if-a-person-contracts-to-perform-a-consulting-service-for-a~~
8 ~~state-agency-without-complying-with-the-requirements-of-Section--6B~~
9 ~~of--this--Act~~7] then the contract, renewal, amendment, or extension
10 is voidable [void].

11 (b) If a private consultant contracts with a state agency
12 without complying with the requirements of Section 9, then the
13 contract is voidable.

14 (c) When [~~if~~] a contract, renewal, amendment, or
15 extension is voidable [void] under this section:[7]

16 (1) the comptroller of public accounts may not draw a
17 warrant or transmit funds to satisfy an obligation under the
18 contract, renewal, amendment, or extension; and [or]

19 (2) a state agency may not make any payments under the
20 contract, renewal, amendment, or extension from any state or
21 federal funds held in or outside the state treasury until the state
22 agency has complied with Sections 5 through 7 of this Act [~~State~~
23 ~~Treasury~~].

24 Sec. 12. A state agency may not divide a consulting
25 services contract or a renewal, amendment, or extension of a
26 consulting services contract into more than one contract, renewal,
27 amendment, or extension in order to avoid the requirements of this

1 Act.

2 Sec. 13. (a) After a state agency's contract with a private
3 consultant has ended, the state agency shall, upon request, supply
4 the Legislative Budget Board and the governor's Budget and Planning
5 Office with copies of all documents, films, recordings, or reports
6 developed by the private consultant.

7 (b) Copies of all documents, films, recordings, or reports
8 developed by the private consultant shall be filed with the Texas
9 State Library and shall be retained by the library for at least
10 five years after receipt.

11 (c) The Texas State Library shall compile a list of
12 documents, films, recordings, and reports submitted to it under
13 Subsection (b) and shall file the list at the end of each calendar
14 quarter with the secretary of state for publication in the Texas
15 Register.

16 Sec. 14. As part of the biennial budgetary hearing process
17 conducted by the Legislative Budget Board and the governor's Budget
18 and Planning Office, a state agency shall supply the Legislative
19 Budget Board and the governor's Budget and Planning Office with
20 reports on what action was taken in response to the recommendations
21 of any private consultant employed by the state agency during the
22 previous biennium.

23 Sec. 15. If a contract involves both consulting services and
24 other types of services, then this Act applies if the primary
25 objective of the contract is the purchase of consulting services.

26 Sec. 16 [6B]. (a) It is the intent of the legislature that
27 this Act be interpreted in a manner that ensures;

1 (1) ~~[assures]~~ the greatest and fairest ~~[fair]~~
2 competition in the selection by state agencies ~~[and-regional~~
3 ~~councils-of-government]~~ of private consultants; ~~[under--contracts~~
4 ~~covered-by-this-Act]~~ and

5 (2) ~~[that---assures]~~ that all potential private
6 consultants ~~[providers-of-consulting-services]~~ are afforded notice
7 of the need for and opportunity to provide consulting ~~[the]~~
8 services.

9 (b) This Act is not intended to discourage ~~[the--use--by]~~
10 state agencies from using ~~[or-regional-councils-of-government-of]~~
11 private consultants if the agencies reasonably foresee their use
12 will ~~[may-reasonably-be-expected-to]~~ result in a more efficient and
13 less costly operation or project. This Act is not intended to
14 prohibit the letting of a sole-source contract for consulting
15 services if no proposal is received from a competent,
16 knowledgeable, and qualified private consultant at a reasonable
17 fee, after the procedures set forth in this Act have been followed.

18 (c) This Act neither requires nor prohibits the use of
19 competitive bidding procedures to purchase consulting services.

20 Sec. 17. The comptroller shall adopt rules for the efficient
21 and effective implementation and administration of this Act. The
22 comptroller's rules may not conflict with or cover the same subject
23 matter concerning which this Act authorizes the governor to adopt
24 rules.

25 PART 6. REPEALER

26 SECTION 6.01. (a) Section 3.27, State Purchasing and
27 General Services Act (Article 601b, Vernon's Texas Civil Statutes),

1 is repealed.

2 (b) Subsection (b), Section 6.051, State Purchasing and
3 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
4 as added by Section 4, Chapter 779, Acts of the 71st Legislature,
5 Regular Session, 1989, is repealed.

6 (c) Article 99, State Purchasing and General Services Act
7 (Article 601b, Vernon's Texas Civil Statutes), is repealed.

8 (d) Article 8, State Purchasing and General Services Act
9 (Article 601b, Vernon's Texas Civil Statutes), is repealed on
10 certification by the comptroller of the implementation of the fixed
11 asset component of the uniform statewide accounting system.

12 PART 7. TRANSITIONAL MATTERS

13 SECTION 7.01. Sections 2.051 and 2.061, State Purchasing and
14 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
15 as added by this Act, do not apply to a person who is a member of
16 the State Purchasing and General Services Commission immediately
17 before the effective date of this Act during the term the person is
18 serving at that time.

19 SECTION 7.02. (a) To the extent appropriate, the General
20 Services Commission shall exhaust its supplies of forms,
21 publications, documents, and other consumable property bearing its
22 former name before using new consumable property bearing the name
23 "General Services Commission."

24 (b) The first policy statement required to be filed under
25 Subsection (j), Section 2.06, State Purchasing and General Services
26 Act (Article 601b, Vernon's Texas Civil Statutes), as added by this
27 Act, must be filed before December 1, 1991.

1 (c) The change in law to Subsection (c), Section 5.20, State
2 Purchasing and General Services Act (Article 601b, Vernon's Texas
3 Civil Statutes), made by this Act that relates to allowing bidders
4 at least 30 days to respond to an invitation to bid, and the change
5 in law to Subsection (b), Section 5.22, State Purchasing and
6 General Services Act, made by this Act that relates to allowing
7 each private architect/engineer at least 30 days to prepare for an
8 interview, apply only in relation to a contract for which the
9 commission issues bid documents on or after the effective date of
10 this Act.

11 (d) The General Services Commission is required to identify
12 only one of its own commercial activities for competitive cost
13 review under Section 13.03, State Purchasing and General Services
14 Act (Article 601b, Vernon's Texas Civil Statutes), as amended by
15 this Act, for the biennium ending August 31, 1993.

16 SECTION 7.03. (a) The school bus revolving fund formerly
17 established under Section 21.180, Education Code, is abolished
18 subject to the satisfaction of any valid outstanding obligations
19 against the fund. The General Services Commission shall transfer
20 any money remaining in the fund after the satisfaction of all valid
21 outstanding obligations against the fund to the state treasury for
22 deposit in the General Revenue Fund. The commission shall transfer
23 any money received by the commission after the date the fund was
24 abolished that was owed to the fund before the date the fund was
25 abolished to the state treasury for deposit in the General Revenue
26 Fund.

27 (b) The changes in law made by this Act relating to a

1 contract for the lease of one or more school buses under Section
2 21.182, Education Code, and other law apply only to a contract made
3 on or after the effective date of this Act except that the
4 reporting requirements added to Subsection (h), Section 21.182,
5 Education Code, by this Act apply according to their terms to any
6 contract under Section 21.182. Otherwise, a contract for the lease
7 of one or more school buses that was made under Section 21.182,
8 Education Code, before the effective date of this Act is governed
9 by the law relating to a contract for the lease of one or more
10 school buses by a county or local district school board in effect
11 on the date that the contract was made, and that law is continued
12 in effect for this purpose.

13 SECTION 7.04. (a) The changes in law made by Part 4 of this
14 Act relating to the dissemination of information about the
15 architectural barriers program, the setting and collecting of fees
16 to recover program costs, and the transfer of that program from the
17 General Services Commission to the Texas Department of Licensing
18 and Regulation apply beginning on the effective date of this Act.
19 All other changes in law made by Part 4 of this Act relating to the
20 architectural barriers program do not apply until January 1, 1992,
21 and until that date the former law governs the program and is
22 continued in effect for this purpose.

23 (b) On the effective date of this Act all powers, duties,
24 and obligations relating to the architectural barriers program are
25 transferred from the General Services Commission to the Texas
26 Department of Licensing and Regulation as provided by this Act.
27 All records and property in the custody of the commission that

1 relate to the program are transferred to the department. All
2 appropriations to the commission for the operation of the program
3 and all employees of the commission employed to operate the program
4 are transferred to the department. All investigations and all
5 filed complaints relating to the program are transferred without
6 change in status from the commission to the department. All
7 commission rules, standards, and specifications relating to the
8 program remain in effect as department rules, standards, and
9 specifications unless superseded by proper authority of the
10 department.

11 SECTION 7.05. (a) A contract that was made before the
12 effective date of this Act to which Chapter 454, Acts of the 65th
13 Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's
14 Texas Civil Statutes), applied is neither void nor voidable solely
15 for a failure to comply with that law's requirements, if the
16 contract was made in compliance with that law either as it was
17 originally enacted in 1977 or as it was amended by Article 98,
18 Chapter 773, Acts of the 66th Legislature, 1979.

19 (b) The changes in law made by Part 5 of this Act relating
20 to consulting, professional, and routine services apply only to a
21 contract or a contract extension, amendment, or renewal made on or
22 after the effective date of this Act. A contract relating to those
23 services that was made before the effective date of this Act is
24 governed by the law in effect at the time the contract was made,
25 except for matters relating to an extension, amendment, or renewal
26 of such a contract on or after the effective date of this Act, and
27 the prior law is continued in effect for this purpose.

1 SECTION 7.06. The changes made by Subchapter L, Chapter 403,
2 Government Code, as added by this Act, take effect on certification
3 by the comptroller of the implementation of the fixed asset
4 component of the uniform statewide accounting system.

5 SECTION 7.07. (a) Each member of the board of the
6 Department of Information Resources who is serving on the board on
7 the effective date of this Act or on the first day after the end of
8 the Regular Session of the 72nd Legislature, whichever date is
9 later, and who is not a member of the legislature remains a member
10 of the board for the duration of the term for which the person was
11 appointed except as provided by this section. An appointment to
12 fill any remaining vacancy on the board shall be filled in
13 accordance with Section 6, Information Resources Management Act
14 (Article 4413(32j), Revised Statutes), as amended by this Act. If
15 the chairman of the board on the effective date of this Act remains
16 on the board under this section, that person remains chairman
17 unless the governor designates a new chairman.

18 (b) If under Subsection (a) of this section three persons
19 who serve for terms that expire on the same date or three persons
20 who were not appointed from a list submitted by the lieutenant
21 governor or the speaker of the house of representatives would
22 remain on the board of the Department of Information Resources, the
23 affected persons by unanimous agreement or by lot shall determine
24 which two of the affected persons shall remain members of the board
25 under Subsection (a) of this section.

26 PART 8. EFFECTIVE DATE; EMERGENCY CLAUSE

27 SECTION 8.01. This Act takes effect September 1, 1991.

1 SECTION 8.02. The importance of this legislation and the
2 crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended,
6 and that this Act take effect and be in force according to its
7 terms, and it is so enacted.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

July 19, 1991

**TO: Honorable Bill Haley, Chairman
Committee on Administration
Senate Chamber
Austin, Texas**

**IN RE: Senate Bill No. 25, First Called Session
By: Barrientos**

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 25, First Called Session (relating to the continuation, functions, and change of the name of the State Purchasing and General Services Commission, the transfer of responsibility for architectural barrier programs from the commission to the Texas Department of Licensing and Regulation, the transfer of responsibility for the personal property accounting system from the commission to the comptroller, providing penalties) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The State Purchasing and General Services Commission is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1991.

The bill would continue the State Purchasing and General Services Commission and make several changes to the enabling statute. Some of the more significant changes would include: changing the name of the agency to the General Services Commission; requiring the chief of capital security to report directly to the executive director; requiring the commission to establish a disadvantaged businesses program and creating an advisory committee to assist the commission; establishing factors to be used to evaluate proposals for the award of contracts; raising the minimum dollar value of small purchases delegated to state agencies for competitive bidding from \$500 to \$5,000; raising the minimum dollar value for any competitive bidding requirements from \$100 to \$1,000; requiring state agencies making purchases over \$5,000 to solicit bids from all eligible vendors and authorizing agencies to charge fees to vendors for participation in the bid lists; requiring the commission to test and inspect costly purchases; requiring the commission to annually review state agency purchases of routine services; authorizing the commission to extend the deadline for conversion of state vehicles to use alternative fuels and prohibiting the extension beyond specified dates; prohibiting the purchase of electrical items unless the items meet the applicable safety standards of the federal occupational safety and health administration; requiring the commission to allow at least 30 days for firms to prepare for interviews related to construction projects and for firms to prepare bids for construction projects; modifying elements of the competitive cost review program and making the commission subject to the program; authorizes public universities to provide TEX-AN telecommunications services to students in university housing; modifying the competitive cost review program; modifying the state travel management program; removing requirements that school districts process school bus payments to vendors through the state treasury and abolishing the School Bus Revolving Fund; modifying the conditions and requirements for school districts to lease school buses; transferring the administration of the elimination of architectural barriers program from the commission to the Department of Licensing and Regulation and modifying the elimination of architectural barriers act; making a violation of the elimination of architectural barriers act a violation of the professional engineers and architectural examiners acts; replacing the list of buildings subject to the elimination of architectural barriers act and specifying that buildings included in the definition of "public accommodation" in the federal Americans with Disabilities Act are subject to the statute; requiring the Public Finance Authority to issue, in a timely manner, bond proceeds for projects approved by the legislature; prohibiting a person who receives compensation for preparing specifications or requests for proposals from bidding on the subsequent contract; authorizing the commission to adopt rules to allow a minimum time for conversion of certain vehicles to compressed natural gas or other alternative fuels and defines such vehicles; exempting lease space for a TDMHMR residential program from being procured through the commission; amending the Education Code to require the commission to purchase motor vehicles for school districts using competitive bidding whenever possible and requiring school districts to competitively bid leases or lease-purchases of school buses for contracts of \$10,000 or more; raising the threshold for competitive

bid requirements for school districts \$10,000 to \$15,000, specifying that personal property purchases must be bid in six month blocks, requiring specific purchase procedures based on the cost of goods needed in six month increments, and establishing different procedures based on the six-month cost of goods; exempting the foreign offices operated by the Texas Department of Commerce from certain provisions of the State Purchasing and General Services Act; abolishing the existing law regarding use of private consultants by state agencies; require the state to purchase the Texas Employment Commission building; transfer the state property accounting system from the commission to the Comptroller of Public Accounts; allow purchase of a chair used by an elected or appointed officer, executive head of an agency within the legislature, and judicial departments for its fair market value; change the conflict-of-interest provisions in the purchasing law; change the maximum horsepower limit for purchase of state vehicles that can be purchased by the commission; change the requirements for state agencies to purchase prison-made items; eliminate certain restrictions on state agencies and local governments dealing with permits for building and construction; and requiring the commission to give preference under certain conditions to products made from recycled materials; establishing a process for private businesses to file complaints with the commission and a state agency alleging that the state agency is engaged in unfair competition with the business; establishing process for naming new state buildings; modifying existing requirements for state agencies and political subdivision purchasing prison-made goods; and modifying the consulting services act.

The bill would also amend the Information Resources Management Act. Some of the more significant changes to this act include: decreasing the board to six members; requiring the department to develop a disaster recovery plan for state agency information resources; adding a provision regarding state agency participation in a program of shared use of information resources; requiring plans submitted by state agencies to include an analysis of the benefits of interagency contracting or privatization; authorizing the department to conduct a comparative cost review on information technology projects; prohibiting certain activities of state agencies relating to the purchase of information technologies; authorizing the department to establish a certification program for state agency information resource managers.

The bill would create a new information technologies consulting services act relating to purchasing requirements for these services which would place primary responsibility for administration and rule making with the DIR; remove any application of the consulting services or professional services statutes to information resources technologies consulting services; require the Governor to issue finding of need for proposed contracts, and authorize the Governor to waive procedural requirements in emergencies.

The amount set forth for the administration of this agency in the General Appropriation Bill, as introduced, (FY 92 = \$59,130,980; FY 93 = \$60,906,642) would be contingent upon passage of S.B. 25 or similar legislation. The appropriations would be financed from General Revenue, State Parking Fund No. 125, statutory or rider appropriations, Telecommunications Revolving Account, and estimated Parking Fines and would provide for approximately 922.4 employees.

The bill would raise the statutory minimum dollar value of small purchases delegated to state agencies from \$500 to \$5,000. This change would allow agencies to make all purchases under \$5,000 without submitting them to the commission for bidding. Although state agencies may have some increased workload in obtaining bids on purchases now going through the commission, it is assumed that reduced involvement with the commission would offset it.

The bill would raise the minimum statutory dollar value of small purchases that do not require any type of competitive bidding from \$100 to \$1,000. Agencies are currently required to obtain at least three informal bids before making purchases valued between \$250 and \$1,000. It is assumed that the cost of the 98,000 small purchases made annually by all state agencies would increase by approximately 10 percent, or \$2,660,000 per year. However, adequate information is not available to estimate specifically how the increased cost would impact individual agencies or funds. In addition, a significant amount of administrative work related to these purchases would be eliminated, equivalent to approximately 49 purchaser positions throughout state government (totaling \$1.5 million annually). However, the extent to which individual state agencies would actually eliminate positions as a result of the work reduction cannot be estimated.

The bill would authorize public institutions of higher education to provide TEX-AN long distance telephone services to public college and university students in university housing, and would require the commission to develop rules on conditions of access and cost recovery from student

users. Currently, TEX-AN is not available to students in state colleges and universities. It is estimated that this change could result in \$2,040,000 of additional revenue to the TEX-AN system in 1992 and could increase to \$2,479,632 by 1996. The added revenue would result in a corresponding reduction in charges to all current users of the system. The savings would affect general revenue and other funds.

The bill would require state agencies to solicit bids from all eligible vendors that have applied to agencies' bid lists for purchases that are not required to be processed through the commission and that are over \$5,000. The bill would also require state agencies to develop procedures for maintaining bid lists and would authorize agencies to charge cost recovery fees for participation on the lists. Currently, state agencies are only required to get at least 3 bids before making such purchases. Any additional costs to agencies would be minimal and would be recovered through fees. Savings could result from this change but cannot be estimated at this time.

The bill would require all state agencies in the executive branch to participate in contracted travel rates (e.g. airfares, hotel, rental cars) and all executive branch agencies, except institutions of higher education, to participate in contracted travel agency services. This would result in overall savings of an estimated \$2,488,830 to all state agencies. This savings would affect general revenue and other funds.

The bill would authorize administrative penalties to be levied against violators of the elimination of architectural barriers statute and related rules. It is assumed that this recommendation would result in revenue gains to the General Revenue Fund; however, an estimate of these revenue gains cannot be determined at this time.

The bill requires all buildings covered by the architectural barriers statute to provide rest room facilities to conform to the Uniform Plumbing Code. This change would increase the department's workload by requiring it to monitor compliance with Appendix C standards. The cost associated with this provision cannot be estimated because the degree to which the department's workload would be increased cannot be determined. Also, it is unclear if or how this change would impact state and local governments whose buildings must comply with the architectural barriers statute.

The bill modifies the competitive cost review program by adding provisions to ensure that government agencies do not needlessly and unfairly compete with private enterprise and provides for a complaint process for private enterprise to use when such competition exists. The commission is required to develop the complaint process and make determinations about contested activities. Developing and administering the process would have fiscal implications for the commission, but no estimate can be made because the number of such complaints is unknown at this time.

The probable fiscal implications from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Probable Revenue Gain to the General Revenue Fund</u>	<u>Change in Number of State Employees from FY 1991</u>
1992	\$ 452,047	\$ 581,529	+ 8.00
1993	280,677	401,529	+ 6.75
1994	280,677	401,529	+ 6.75
1995	280,677	401,529	+ 6.75
1996	280,677	401,529	+ 6.75

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Five provisions of the bill would also affect units of local government. Local governments would be required to pay fees associated with buildings they own that are subject to the elimination of architectural barriers statute and would be subject to fines for violations of the act. The bill would require that any contract valued at \$10,000 or more by a public school board for the lease or lease-purchase of school buses shall be competitively bid whenever possible. Under current law competitive bidding for such contracts is not required. While competitive bidding on lease contracts may result in savings to school districts, no estimate of the savings can be made at this time. The

bill would require the commission to purchase motor vehicles, primarily school buses, for school districts using competitive bidding whenever possible and requires school districts to competitively bid lease or lease-purchase of school buses for contracts of \$10,000 or more. The bill eliminates certain restrictions placed on local governments dealing with permits for building and construction. Under current law, once a permit is granted by a local government, the local government cannot change permit requirements. The restriction on local governments is problematic when projects are delayed over extended periods of time and major state or federal requirements change. The change places a one-year limit on a permit if a project becomes inactive and requires a new permit when the project is reactivated. However, an estimate of the fiscal impact of these changes on local governments cannot be determined.

Source: Sunset Advisory Commission; State Purchasing and General Services Commission;
Comptroller of Public Accounts
LBB Staff: JO, JWH, DF, LS, PA

A BILL TO BE ENTITLED

AN ACT

relating to the continuation, functions, and change of the name of the State Purchasing and General Services Commission, the transfer of responsibility for architectural barrier programs from the commission to the Texas Department of Licensing and Regulation, the transfer of responsibility for the personal property accounting system from the commission to the comptroller, and the acquisition by the commission and other entities of property and services; providing penalties.

JUN 15 1991

Filed with the Secretary of the Senate

JUN 15 1991Read and referred to Committee on Adm'nis

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

{ _____ yeas, _____ nays

Read second time, _____, and ordered engrossed by:

{ unanimous consent
a viva voce vote

{ _____ yeas, _____ nays

Caption ordered amended to conform to the body of the bill.

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by:

{ A viva voce vote

{ _____ yeas, _____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk _____

Received from the Senate

Read first time and referred to Committee on _____

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays _____ present not voting.

Read third time (amended): finally passed (failed) by a (Non-Record Vote) Record Vote of

_____ yeas, _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays